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**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF ILLINOIS**

**IN RE: HARRY Z. PARKER, DOING BUSINESS AS PARKER**  
**MOVIE FREIGHT, REGULAR COMMON CARRIERS**  
**CONFERENCE OF THE AMERICAN TRUCKING ASSO-**  
**CIATIONS, INC. ET AL.**

**IN RE: HARRY Z. PARKER, DOING BUSINESS AS PARKER**  
**MOVIE FREIGHT, REGULAR COMMON CARRIERS**  
**CONFERENCE OF THE AMERICAN TRUCKING ASSO-**  
**CIATIONS, INC. ET AL.**

**No. 106**  
**THE UNITED STATES OF AMERICA, APPELLANT**

**vs.**  
**HARRY Z. PARKER, DOING BUSINESS AS PARKER**  
**MOVIE FREIGHT, REGULAR COMMON CARRIERS**  
**CONFERENCE OF THE AMERICAN TRUCKING ASSO-**  
**CIATIONS, INC. ET AL.**

**APPEALS FROM THE DISTRICT COURT OF THE UNITED STATES**  
**FOR THE SOUTHERN DISTRICT OF ILLINOIS**



# TRANSCRIPT OF RECORD

## SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1944

No. 507

INTERSTATE COMMERCE COMMISSION, THE WIL-  
LETT COMPANY OF INDIANA, INC., AND THE PENN-  
SYLVANIA RAILROAD COMPANY, APPELLANTS

vs.

HARRY A. PARKER, DOING BUSINESS AS PARKER  
MOTOR FREIGHT, REGULAR COMMON CARRIERS  
CONFERENCE OF THE AMERICAN TRUCKING ASSO-  
CIATIONS, INC., ET AL.

No. 508

THE UNITED STATES OF AMERICA, APPELLANT

vs.

HARRY A. PARKER, DOING BUSINESS AS PARKER  
MOTOR FREIGHT, REGULAR COMMON CARRIERS  
CONFERENCE OF THE AMERICAN TRUCKING ASSO-  
CIATIONS, INC., ET AL.

APPEALS FROM THE DISTRICT COURT OF THE UNITED STATES  
FOR THE SOUTHERN DISTRICT OF INDIANA

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2 In the District Court of the United States for the Southern  
District of Indiana; Indianapolis Division

Civil Action No. 781

**HARRY A. PARKER, D/B/A PARKER MOTOR FREIGHT, PLAINTIFF**

*vs.*

**UNITED STATES OF AMERICA, DEFENDANT**

*Complaint*

Filed Feb. 21, 1944

1. This suit is brought under Title 28, U. S. Code, Section 41, subdivision 28 and Sections 43, 44, 45, 46, 47, 47a, and 48 and under Title 49, U. S. Code, Sections 17 (9) and 301 (g) (h) (being Sections 17 (9) and 205 (g) (h) of the Interstate Commerce Act), to enjoin, set aside, annul and suspend a decision, order, or requirement of the Interstate Commerce Commission entered on September 25, 1943, and the final order denying plaintiff's Petition for Reconsideration dated February 8, 1944 (copies of which are attached hereto as Exhibits A and B), in a proceeding pending before the said Commission entitled The Willett Company of Indiana, Inc., Extension—Fort Wayne—Mackinac City, Michigan (Sub No. 6):

2. The order in the said proceeding is based on an application wherein the Willett Company of Indiana, an Indiana corporation, seeks the right to establish some seven different operating divisions through the use of motor vehicles. The said Willett Company is a subsidiary of the Pennsylvania Railroad Company. The several separate operating divisions include routes extending from Grand Rapids, Michigan to Petoskey, Traverse City and Mackinac City, Michigan. These routes will parallel the routes served by this plaintiff and by other motor carriers and will permit the applicant to serve points on said routes now served by this plaintiff. Competition will be open and direct between the Willett Company and this plaintiff.

3. The Parker Motor Freight is a motor carrier operating under authority of the Interstate Commerce Commission. Harry Parker of Petoskey, Michigan is the owner operating under the name of Parker Motor Freight. It operates principally from Grand Rapids to points north over the routes, or serving the

points involved in that part of the application. The plaintiff is in regular operation in interstate commerce and will be directly affected by the new competition brought into being by the order in question.

4. The Willett Company of Indiana is an Indiana corporation claiming to have its principal place of business at Indianapolis, Ind. On or about September 8, 1941 the applicant filed an application with the Interstate Commerce Commission seeking a certificate of public convenience and necessity authorizing an extension of operations in interstate or foreign commerce as a common carrier, by motor vehicle of general commodities between Fort Wayne and Mackinac City over seven connecting routes. The precise description of the highways and the scope of the authority sought is more particularly set out in the order about which complaint is now made and in documents attached to this bill of complaint. The application seeks authority to operate over highways serving points being served by these plaintiffs and by a number of other motor carriers. The matter was duly scheduled for hearing. On February 10th and 11th, 1942, the applicant presented its proof and the matter was then adjourned. Hearings were resumed on June 1st and continued on June 2nd, 1942.

3. The matter was heard by a Joint Board composed of representatives from Indiana and Michigan. Because of the inability of the Joint Board to agree, the matter was then referred to an Examiner who made a report served on September 14, 1942. This proposed report and order granted the applicant all that it sought. Exceptions were then filed by these plaintiffs under date of October 29, 1942. On September 25, 1943, Division 5 of the Com-

4. mission handed down an order denying all of the exceptions and objections we raised and granting the applicant all that it had sought in the original application. Proper extensions of time were secured and, in due course, these plaintiffs filed a petition for reopening, reconsideration, oral argument and other relief. The applicant then made reply and the Commission issued its order denying our prayers for relief by its order dated February 8, 1944. This matter is now brought on before this Honorable Court because of the many errors of both law and fact to be found in the Division order of September 25, 1943, and its order denying our petition for reconsideration bearing date of February 8, 1944.

6. The applicant did not present evidence showing that the public convenience and necessity required the proposed operation. The evidence offered by the applicant dealt only with a claimed saving to its owner, the Pennsylvania Railroad, and with other subjects not germane to the issues on this type of an application.

7. The applicant did not present any evidence designed to prove that motor carriers already performing operations and offering



service over the routes and between the points involved were or would be unable to furnish the service covered by the application. Instead, the applicant and its railroad owner admitted that they had no knowledge of the motor carrier service available over these said routes. They further admitted that they would not make use of any existing common motor carrier service even though such carriers could furnish a service equal to or superior to the service proposed by the applicant. The record is utterly barren of evidence which could prove that the proposed service is required for the public convenience and necessity, or that the proposed service could not be obtained through the use of carriers already operating over the routes and between the points involved on the seven different sections of the application.

8. The protestants in the case presented evidence in considerable volume showing that motor carriers operating over the routes and between the points covered by the application were in a position to and could furnish the precise service described by the applicant. The protestants presented uncontradicted proof showing that some of them were performing precisely the same sort of service for another railroad and that there was nothing unusual or extraordinary about the service the applicant was seeking the right to perform. The protestants presented much proof to show that there was no need for the grant of a certificate to a new carrier and that the public convenience and necessity did not require the grant of the certificate being sought.

9. The Commission, through Division 6 in its order of September 25, 1943, wholly disregarded all of the evidence presented by the protestants. The order contains many alleged findings of fact that do not have any foundation in the record. The Division order makes a number of findings of fact that are directly contrary to the only evidence in the record. The order also makes findings of fact on subjects not touched upon by any evidence in the record and then uses such findings as the basis for its order granting the certificate. The order, therefore, is not supported by the record and is contrary to all of the important and essential facts as shown by the record.

10. The order of the Commission is based on improper and unlawful conclusions of both fact and law. The Division has determined many of the issues on the basis of evidence presented in other cases at other times in which these protestants took no part.

11. The order is based on a discriminatory application of the statute. The Commission has not applied the statute in determining the issues in this case in the same manner as it has always applied it to motor carriers not owned or controlled by a railroad. The Commission has arbitrarily and capriciously authorized the grant of a certificate to this applicant without requiring it to

6 present evidence that there is no carrier already in the field capable of performing the proposed service but, instead, has applied a wholly improper and unlawful test and measure of proof. The order proposes to grant a certificate to the applicant because it is owned by the railroad for whom the service is to be performed and not because the service is actually required by the public convenience and necessity.

12. The Commission has applied tests that do not have anything to do with the grant of a certificate of public convenience and necessity. The Commission has applied tests prescribed only by the sections of the Act dealing with the issuance of authority to contract carriers, although the applicant here seeks a common carrier certificate.

13. The Commission has refused to reopen the case to permit the introduction of proof by these and other protestants going to show that the shipper witnesses produced by the applicant had appeared and given testimony for improper reasons. The Joint Board who heard the case refused to permit us to introduce proof showing that the applicant's shipper witnesses had admitted to having appeared and testified for reasons having no connection whatever with public convenience and necessity. Such evidence would have shown that the shipper witnesses were biased and prejudiced and that they had admitted that they did not appear because the public convenience and necessity required the institution of a new service. This vital testimony would have destroyed both the credibility and weight, as well as the admissibility of the evidence given by applicant's shipper witnesses, but the Commission has failed and refused to even make note of our objection on this score. The order of the Commission is unlawful and defective because it does not contain proper findings upon many material questions of fact and law that have been raised and argued by these plaintiffs during the progress of the cause.

7 14. The order is defective and unlawful and constitutes an unreasonable and arbitrary exercise of power because the Division has substituted a refusal on the part of the railroad to do business with any existing motor carrier for the proof of public convenience and necessity required by the statute. The Commission has based its order on claimed facts and arguments not supported by the record. The Commission has wholly omitted to give any consideration to many controlling facts and to the plain language of the statute.

15. The Commission, unless restrained, will within a short time issue a final certificate to the applicant. The said certificate will conform to the order of the Commission dated September 25, 1943, unless a temporary restraining order and a temporary injunction issues enjoining the enforcement or the taking effect of the said

order and unless that order is vacated, suspended, and set aside during the pendency of this litigation, these plaintiffs will suffer irreparable damage, injustice, and inconvenience and will find themselves confronted with unlawful competition against which they are afforded protection by the provisions of the motor carrier act under which all these proceedings are being carried on.

Wherefore, being without an adequate remedy at law and plaintiffs' relief being in this Court, and in order to prevent immediate and irreparable loss to plaintiffs, and great and irremedial damage to them, plaintiffs pray this Court for the following relief:

1. That process issue against the United States of America by law.

2. That the Court, as soon as practicable after the filing of this complaint, call to its assistance for the hearing and determination of the issues raised by this Bill of Complaint two other Judges, one of whom shall be a Circuit Judge.

3. That this Court issue a temporary restraining order and temporary injunction staying and suspending the operation and effect of the Commission Orders of September 25, 1943, and February 8, 1944, purporting to grant a certificate of public convenience and necessity to The Willett Company of Indiana, and that such temporary restraining order and temporary injunction further stay and suspend the order and the effect of the orders of the Commission bearing date of September 25, 1943, and February 8, 1944, referred to above, and enjoining any action on the part of the said Interstate Commerce Commission which would result in the issuance of a certificate, or of any authority to the said Willett Company of Indiana, Inc. as proposed in the orders complained of.

4. That a temporary restraining order and temporary injunction be entered herein restraining, enjoining, and suspending until the further order of this Court the operation, execution, effect, and enforcement of the orders of the said Interstate Commerce Commission bearing date of September 25, 1943, and February 8, 1944.

5. That upon its final hearing of the cause, this Court adjudge the said orders of the Interstate Commerce Commission to be null and void and that it shall enjoin, set aside, annul, and suspend the whole of the said orders. That the Court adjudge the said orders to be without support in the record; beyond the statutory or constitutional power of the Commission; confiscatory and unreasonable and arbitrary and unjustified. That it further find that the application of the said order will result in confiscation of the property of these plaintiffs and will result in a taking of their property without due process of law.



6. That they be granted such other and further or different relief as the Court may deem proper in the premises.

K. F. CLARDY,

K. F. Clardy,

Attorney for Plaintiff,

712 Olds Tower, Lansing, Mich.

Dated at Lansing, Michigan, Feb. 15, 1944.

9. [Duly sworn to by Harry Parker; jurat omitted in printing.]

10

*Exhibit A to complaint*

# INTERSTATE COMMERCE COMMISSION

No. MC-2815 (Sub-No. 6)

THE WILLETT COMPANY OF INDIANA, INC., EXTENSION—FORT WAYNE—  
MACKINAW CITY, MICH.

*Submitted December 17, 1942. Decided September 25, 1943*

Public convenience and necessity found to require operation by applicant as a common carrier by motor vehicle, of general commodities, over specified routes, between points in Indiana and Michigan, serving points which are stations on the rail line of The Pennsylvania Railroad Company. Issuance of a certificate, subject to conditions, approved upon compliance by applicant with certain conditions.

Harry E. Yockey, Kirkwood Yockey, and Earl W. Munshaw for applicant.

Oscar Lindstrand for intervenor.

Claude H. Anderson, K. F. Clardy, Robert DesRoches, Fred I. King, George O. Cowan, W. J. Gaenther, and Frank C. Devlin for protestants.

## REPORT OF THE COMMISSION

DIVISION 5, COMMISSIONERS MAHAFFIE, ROGERS, AND PATTERSON  
By DIVISION 5.

Exceptions were filed by protestants to the order recommended by the examiner and applicant replied.

By application filed September 8, 1941, as amended. The Willett Company of Indiana, Inc., of Chicago, Ill., seeks a certificate of public convenience and necessity authorizing extension of operations, in interstate or foreign commerce, as a common carrier by motor vehicle, of general commodities, between Fort Wayne, Ind., and Mackinaw City, Mich., over seven connecting routes between

the following termini: (1) Fort Wayne, and Grand Rapids, Mich., (2) Grand Rapids and Cadillac, Mich., (3) Cadillac and Mackinaw City, Mich., (4) Cadillac and Traverse City, Mich., (5) Cadillac and Falmouth, Mich., (6) Grand Rapids and Muskegon, Mich., and (7) Lake City and Manton, Mich., serving intermediate and off-route points which are stations on the rail line of The Pennsylvania Railroad Company as more fully described in the appendix hereto. Certain motor carriers operating in the affected territory oppose the application. The Pennsylvania Railroad Company, hereinafter called the railroad, intervened in behalf of applicant.

Applicant is now authorized to operate over routes that parallel practically the entire system of the railroad in Ohio, Indiana, and Illinois, serving stations on the rail line. These routes extend west from Bradford, Ohio, and Richmond, Ind., to St. Louis, Mo., and north from Louisville, Ky., to Chicago, Ill., and include a route between Richmond and Fort Wayne. By the instant application

applicant seeks to extend its operations over routes in Indiana and Michigan north of Fort Wayne so as to serve points on the Grand Rapids division of the Railroad. This grant of authority would allow applicant to round out its station-to-station service within the railroad's so-called western region by the extension of such service to points in Michigan.

Applicant was organized under the laws of Indiana in 1934. Its entire capital stock is owned by the American Contract & Trust Company, the latter being a wholly owned subsidiary of the railroad. On the date of the hearing applicant owned and operated 84 pieces of equipment composed of 41 tractors and 43 trailers, of which 12 of each will be used in the proposed operations. At that time it had 78 employees and intends to hire 11 drivers for the new operations. It has no terminal or dock personnel, but maintains a garage at Grand Rapids.

The operations under consideration would be limited to line-haul movements between stations on lines of the railroad. Applicant would render service which is auxiliary to, and supplemental of, the rail service in the transportation of less-than-carload freight. The general plan of this coordinated service is to transport such traffic by rail between key or break-bulk stations and thence by truck to the intermediate or way stations. Conversely, applicant would collect freight at the way stations and transport it to the key stations for movement beyond by rail.

Generally speaking, the termini of each of the connecting routes are relatively large cities or important junction points on the main line of the railroad extending between Fort Wayne and Mackinaw City. Fort Wayne and Grand Rapids have been selected by applicant as key points. Points on the branch lines will be served by motor vehicles operating to and from Grand Rapids. The rail

service between Fort Wayne and Grand Rapids is frequent and the volume of tonnage is heavy, whereas the intermediate points receive less tonnage and less frequent service. This is also true at the points north of Grand Rapids with the exception of Cadillac, Traverse City, and Petoskey, Mich.

The estimated monthly tonnage in pounds between the given termini is as follows: Between Fort Wayne and Grand Rapids 935,870 pounds; between Grand Rapids and Cadillac 854,620 pounds; between Cadillac and Mackinaw City 498,420 pounds; between Cadillac and Traverse City 280,020 pounds; and between Grand Rapids and Muskegon 831,090 pounds. The distances by highway and rail between the termini are as follows: From Fort Wayne to Grand Rapids, 168 miles by highway and 142 by rail; from Grand Rapids to Cadillac, 106 miles by highway and 98 by rail; from Cadillac to Mackinaw City 154 miles by highway and 128 by rail; from Cadillac to Traverse City, via Lake City and Falmouth, 88 miles by highway and 47 by rail; and from Grand Rapids to Muskegon, 54 miles by highway and 40 by rail.

The railroad will continue to transport carload freight but will discontinue the operation of "peddler" cars in local freight trains. The substitution of motor-for-rail service over the considered routes will release freight cars for use in through-freight trains and will result in the elimination of over 61,000 car-miles per month and of approximately 860 car-days per month. For every freight car eliminated the necessity for switching that car in the yards will also be eliminated as well as the attendant expense. The proposed operations will expedite the movement of less-than-carload traffic from 24 to 48 hours and will provide daily, instead of triweekly, service at several points.

12 A representative of the railroad described the benefits of coordinated rail-truck service, and numerous shippers and receivers of freight at points on the rail line expressed a belief that this type of service would be advantageous to them in their business enterprises.

A furniture and undertaking establishment at LaGrange, Ind., has been receiving shipments over the railroad for 30 years. These shipments weigh 400 pounds or less and are received at least once a week. Although the present rail service is generally satisfactory, a saving of 24 hours in transit by means of the coordinated service would benefit this receiver.

A company at Plainwell, Mich., manufactures steel equipment, work benches, stools, chairs, cabinets, and other steel items. It has always used rail service for both inbound and outbound shipments. It receives shipments from Bridgeport, Conn., New Brighton and Philadelphia, Pa., Buffalo, N. Y., Cleveland, Ohio,

and Louisville, over the lines of the railroad. Outbound traffic ranging from 50,000 to 75,000 pounds a month is shipped to all parts of the United States. This company uses motor carriers for short hauls, particularly, from and to points in Indiana and Ohio, and will continue to use them as long as their service remains efficient and satisfactory. On the longer hauls rail service has proved more efficient, but a saving of 24 hours in transit under the proposed rail-motor service would be a definite advantage to this company.

A dealer in farm equipment and hardware in Conklin, Mich., an intermediate point between Grand Rapids and Muskegon, has used the railroad for both inbound and outbound shipments for 15 years. This dealer uses motor carriers in shipping from and to points in Michigan. He receives shipments from Milwaukee, Wis., Moline, Ill., Waterloo, Iowa, and Indianapolis and Kendallville, Ind. The present rail service is too slow, and if the above-described movements could be expedited by 24 hours his particular business would be benefited.

A furniture dealer at Reed City, Mich., has used the railroad principally for inbound movements of freight for 30 years. He receives shipments from Galion, Ohio, Huntington and Nappanee, Ind., Louisville, Chicago, and Milwaukee. A saving of 24 hours in transit on these shipments would be a benefit to his business.

At the hearing 37 other shippers located at intermediate and off-route points on the proposed routes appeared in support of the application. It was stipulated by agreement of the parties that their testimony would be similar to that described above. Ten of these shippers are located at points between Fort Wayne and Grand Rapids, 11 between Grand Rapids and Cadillac, 12 between Cadillac and Mackinaw City, including Traverse City, and 1 at Falmouth. These shippers consider the coordinated service essential to their respective businesses and desire that such service be instituted.

Protestant, Parker Motor Freight, of Petoskey, operates a general-commodity service in interstate commerce from Grand Rapids to Mackinaw City, Traverse City, and Harbor Springs, Mich., over routes which duplicate a portion of the proposed routes. However, this carrier does not serve intermediate points between Grand Rapids and Cadillac nor Lake City. If the railroad were to offer its less-than-carload freight to this carrier, the latter could render overnight service between Grand Rapids and points on its routes.

Another protestant, O. I. M. Transit Corporation, of Fort Wayne, performs a similar service between Fort Wayne and Kalamazoo, serving all intermediate points. Three of its ve-

hicles operate daily between Fort Wayne and Kendallville and two between Fort Wayne and Kalamazoo. The carrier is also willing and able to handle the less-than-carload traffic of the railroad.

13 Norwalk Truck Line Company, of Norwalk, Ohio, has 600 units of equipment and operates between Fort Wayne and points in Michigan south of Grand Rapids. The proposed route between Fort Wayne and Grand Rapids will duplicate a portion of this carrier's routes. It performs overnight service between those points and is also willing to accept motor-for-rail shipments from the railroad.

Dallas L. Darling Truck Line, of Grand Rapids, operates between Grand Rapids and Cadillac, and renders daily service between Grand Rapids and Big Rapids, Mich. At the time of the hearing it was serving the Pere Marquette Railroad in substituted service and it would serve the Pennsylvania Railroad in like manner if given the opportunity.

Associated Truck Lines, of Detroit, Mich., operates approximately 400 pieces of equipment. This protestant renders daily service between points covered by the application and has equipment available to serve all of the proposed routes.

Inter-State Motor Freight System, Inc., of Grand Rapids, operates between Fort Wayne, Traverse City, and Petoskey, and between Grand Rapids and Muskegon. It has "peddler" runs from Fort Wayne to Sturgis, Mich., from Sturgis to Kalamazoo, Mich., and from Kalamazoo to Grand Rapids. It operates approximately 300 vehicles in Michigan and had 50 idle vehicles in that State at the time of the hearing. Shortly before the hearing, it made arrangements with the Pere Marquette Railway Company to perform motor-for-rail service for that line.

Keeshin Motor Express Company, Inc., of Chicago has authority to operate between Fort Wayne and Grand Rapids. It operates three units per day between Kalamazoo and Grand Rapids, and from five to seven units per day between Kalamazoo and Fort Wayne.

The examiner recommended that authority be granted applicant to operate over the routes described in the appendix subject to certain restrictions. On exceptions, protestants contend that public convenience and necessity do not require the authority sought and that existing motor carriers have facilities to perform the operations in question, should the railroad desire to enter into an agreement with such carriers.

While several motor carriers operate over portions of the routes involved and in some cases perform similar station-to-station service for the Pere Marquette Railroad, it must be borne in mind



that the railroad has been and is transporting the traffic in question between its stations and is under an obligation to continue to do so. Applicant's service will be of a different character from that performed by motor carriers generally. It will be limited to the handling of merchandise traffic to and from points on the lines of the railroad in substitution for train service. To utilize the facilities of protestant motor carriers, the railroad would be required to make arrangements with several of them, each performing a more or less disjointed part of the service. The railroad through its subsidiary, merely seeks the substitution of a more efficient for a less efficient means of service.

The proposed operations will be conducted in the same manner and under the same conditions as were considered and discussed at some length by division 5, in Willett Co. of Indiana, Inc., Extension—Ill., Ind., and Ky., 21 M. C. C. 405. In that case certain conditions were attached to the authority granted with a view of insuring that the authorized transportation would not be a duplication of and in competition with existing highway service. Subsequently, in Kansas City S. Transport Co., Ind., Com. Car. Application, 28 M. C. C. 5, these conditions were modified by the substitution of the so-called key-point condition in lieu of condition 3 requiring a prior or subsequent rail haul. In the Willett 14 Co. Case, division 5 concluded that the coordinated rail-truck service differs from the service given by the railroad alone or by competing motor carriers alone. It is a new form of service utilizing both rail and motor carrier transportation to advantage and in such a way as to render a merchandise service which is much less expensive and at the same time more expeditious and more convenient and generally satisfactory to the public served. Applicant has been performing such service in conjunction with the railroad over its other routes since prior to October 15, 1935. It is clearly shown that many benefits are derived from such coordinated service.

The motor-carrier service proposed by applicant, operated in close coordination with the railroad's service, will effectuate a reduction in cost, and will result in an increase in efficiency in the transportation over the routes herein considered, which will inure to the benefit of the general public. Furthermore, it does not appear that the restricted service would be directly competitive or unduly prejudicial to the operations of any other motor carrier. We are not impressed by protestants' contentions and are of the opinion that the proposed coordinated service will serve a useful public purpose, and that such useful public purpose cannot be served as well by existing motor carriers. Applicant is able, financially and otherwise, to conduct the described operations.

Since the proposed motor carrier service will be auxiliary to, supplemental of, and coordinated with, the rail service, and since all points which applicant requests authority to serve are stations on the lines of the railroad, the authority herein granted will be limited accordingly. Authority to serve certain key points will be restricted so as to insure a service which is only auxiliary to the rail service and not competitive with existing motor carrier service between such points.

We find that the present and future public convenience and necessity require operation by applicant as a common carrier by motor vehicle, in interstate or foreign commerce, of general commodities, between the points and over the routes shown in the appendix hereto, serving intermediate and off-route points which are stations on the rail line of The Pennsylvania Railroad Company, subject to the following conditions:

1. The service to be performed by applicant shall be limited to service which is auxiliary to, or supplemental of, rail service of The Pennsylvania Railroad Company, hereinafter called the railroad.

2. Applicant shall not serve any point not a station on a rail line of the railroad.

3. No shipments shall be transported by applicant as a common carrier by motor vehicle between any of the following points, or through or to or from more than one of said points: Fort Wayne, Ind., and Grand Rapids, Mich.

4. All contractual arrangements between applicant, the railroad, and the American Contract and Trust Company shall be reported to us and shall be subject to revision, if and as we find it to be necessary in order that such arrangements shall be fair and equitable to the parties.

5. Such further specific conditions as we, in the future, may find it necessary to impose in order to restrict applicant's operation to service which is auxiliary to, or supplemental of, rail service.

We further find that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and our rules and regulations thereunder; and that a certificate authorizing such operations should be granted.

Upon compliance by applicant with the requirements of sections 215 and 217 of the act and our rules and regulations thereunder, an appropriate certificate will be issued.

By the Commission, division 5.

[SEAL]

W. P. BARTEL, *Secretary*.

16

No. MC-2815 (Sub-No. 6)

## APPENDIX

## PROPOSED ROUTES

Route No. 1 Between Fort Wayne, Ind., and Grand Rapids, Mich.: From Fort Wayne over Indiana Highway 3 to Kendallville, Ind., thence over U. S. Highway 6 to junction with Indiana Highway 9; thence over Indiana Highway 9 to junction with Michigan Highway 78; thence over Michigan Highway 78 to junction with Michigan Highway 86, near Nottawa; thence over Michigan Highway 86 to Nottawa; thence over County Roads, through Mendon and Vicksburg to junction with U. S. Highway 131 at Schoolcraft; thence over U. S. Highway 131 to Grand Rapids. Return over the same route.

Intermediate points to be served: Wallen, Huntertown, La Otto, Avilla, Kendallville, Rome City, Wolcottville, LaGrange, and Howe, Ind., Sturgis, Nottawa, Mendon, Vicksburg, Kalamazoo, County Spur, Plainwell, Martin, Shelbyville, Wayland, and Moline, Mich. No off-route points to be served.

Route No. 1a: From Kendallville to Rome City, Ind., over County Roads: No service to intermediate or off-route points.

Route No. 1b: From Nottawa, Mich., over Michigan Highway 85 to Three Rivers, thence over U. S. Highway 131 to Schoolcraft, Mich.

Route No. 2: Between Grand Rapids and Cadillac, Mich.: From Grand Rapids over U. S. Highway 131 to Cadillac, and return over the same route.

Intermediate points to be served: Rockford, Cedar Springs, Sand Lake, Pierson, Howard City, Morley, Stanwood, Big Rapids, Paris, Reed City, Orono, Ashton, and LeRoy, Mich. Off-route point to be served: Tustin, Mich.

Route No. 2a: From Grand Rapids over County Roads, through Comstock Park and Belmont to junction with U. S. Highway 131 north of Grand Rapids.

Intermediate point to be served: Belmont, Mich. No off-route points to be served.

17 Route No. 3: Between Cadillac and Mackinaw City, Mich.: From Cadillac over U. S. Highway 131 to Petoskey, thence over U. S. Highway 31 to Mackinaw City, and return over the same route.

Intermediate points to be served: Manton, Fife Lake, Kalkaska, Antrim, Mancelona, Alba, Boyne Falls, Petoskey, Bay View, Conway, Oden, Alanson, Brutus, Pellston, Levering, and Carp Lake, Mich. Off-route points to be served: South Boardman, Elmira, and Walloon Lake, Mich.

Route No. 3a: From the junction of U. S. Highway 31 and Michigan Highway 131 north of Bay View, thence over Michigan Highway 131 to Harbor Springs, thence over Michigan Highway 131 and County Roads to Conway, Mich.

Intermediate points to be served: Kegonic, Wequetonsing, and Harbor Springs, Mich. No off-route points to be served.

Route No. 4: Between Cadillac and Traverse City, Mich.: From Cadillac over U. S. Highway 131 to Walton, thence over County Roads to Summit City, thence over County Road to junction with Michigan Highway 113, thence over Michigan Highway 113 through Kingsley to junction with Michigan Highway 37, thence over Michigan Highway 37 to the junction with U. S. Highway 31, thence over U. S. Highway 31 to Traverse City, and return over the same route.

Intermediate points to be served: Manton, Walton, Summit City, Kingsley, and Mayfield, Mich. Off-route point to be served: Mayfield, Mich.

Route No. 4a: From Walton over Michigan Highway 113 to junction with Michigan Highway 37, thence over Michigan Highway 37 to junction with U. S. Highway 31, thence over U. S. Highway 31 to Traverse City. No service to intermediate or off-route points.

Route No. 5: Between Cadillac and Falmouth, Mich.: From Cadillac over Michigan Highway 55 to Lake City, thence over Michigan Highway 55 and County Roads to Falmouth, and return over the same route.

18 Intermediate point to be served: Lake City, Mich. No off-route points to be served.

Route No. 5a: From Cadillac over Michigan Highway 55 and County Roads through Lucas to Falmouth. No service to intermediate or off-route points.

Route No. 6: Between Grand Rapids and Muskegon, Mich.: From Grand Rapids over U. S. Highway 16 to Coopersville, thence over County Roads, through Conklin, Ravenna, and Sullivan to junction with Michigan Highway 46, thence over Michigan Highway 46 to junction with U. S. Highway 31, thence over U. S. Highway 31 to Muskegon, and return over the same route.

Intermediate points to be served: Ravenna and Conklin, Mich. No off-route points to be served.

Route No. 6a: From Grand Rapids to Muskegon over U. S. Highway 16. No service to intermediate or off-route points.

Route No. 7: Between Lake City and Manton, Mich.: From Lake City over Michigan Highway 66 to junction with Michigan Highway 42, thence over Michigan Highway 42 to Manton, and return over the same route. No service to intermediate or off-route points.

19 And thereupon there was issued out of the office of the Clerk of this Court a writ of summons for the defendant to the United States Marshal:

Come now Howell Ellis and John S. Powell, Attorneys, and file appearance for the plaintiff, which appearance is as follows:

20 In United States District Court

[Title omitted.]

The undersigned, having been duly admitted to practice in the said Court, hereby enter

*Appearance*

for Plaintiff in the above-entitled cause.

(S) HOWELL ELLIS,

(S) JOHN S. POWELL,

*Attorneys.*

Address: 520 Illinois Building, Indianapolis. Phone Ri. 6883.

21 In United States District Court

*Order designating judges.*

Comes now Honorable William M. Sparks, Acting Senior United States Circuit Judge, and files designation of Honorable Sherman Minton, United States Circuit Judge, and Honorable Luther M. Swygert, United States District Judge, to sit as Judges in the above cause, which designation is as follows:

The assignment of two judges by the undersigned being required under Sec. 380a, 28 U. S. C. A., Act of 1937, I hereby designate and assign the Honorable Sherman Minton, United States Circuit Judge in and for the Seventh Judicial Circuit, and the Honorable Luther M. Swygert, United States District Judge for the Northern District of Indiana, to sit as judges in the above-entitled cause.

(S) WILLIAM M. SPARKS,

*Acting Senior United States Circuit Judge*

*in and for the Seventh Judicial Circuit.*

CHICAGO, ILLINOIS, February 21, 1944.

22 In United States District Court

*Minute entry re hearing*

Feb. 25, 1944

Come now the parties by their respective attorneys and this cause coming on to be heard upon the plaintiff's application for



a temporary injunction, and now upon the stipulation of parties made in open Court and by agreement.

It is hereby ordered that no hearing on this cause be held upon the plaintiff's application for a temporary injunction but that all matters in issue in said cause be submitted for determination by the Court on a final hearing herein.

It is further ordered that said final hearing be held on April 28, 1944 at 10:00 A. M.

Come now the Pennsylvania Railroad Company and the Willett Company of Indiana by their respective attorneys and said parties request the Court for permission to intervene as parties defendant herein and for permission to file an intervening petition, and the Court having considered said request it is ordered that the Pennsylvania Railroad Company and the Willett Company of Indiana have leave to intervene in this cause and are hereby made parties defendant with permission to file intervening petitions herein.

Comes now the Norwalk Truck Line Company by its attorney and files a motion to intervene as a party plaintiff.

23

### In United States District Court

[Title omitted.]

[File endorsement omitted.]

### *Motion for leave to intervene*

Filed Feb. 25, 1944

Norwalk Truck Line Company, applicant for intervention, shows to the Court as follows:

1. This is an action to enjoin, set aside, annul and suspend a decision and order of the Interstate Commerce Commission in a proceeding pending before said Commission, entitled The Willett Company of Indiana, Inc., Extension, Fort Wayne, Indiana, to Mackinac City, Michigan, No. MC 2815 (Sub. No. 6).

2. Applicant is a corporation, organized and existing under the laws of the State of Ohio, with office and principal place of business at Norwalk, State of Ohio.

3. Applicant is a common carrier of property by motor vehicle and engaged in the transportation of such property for hire in interstate commerce over public highways in the States of Ohio, Indiana, Illinois, and Michigan.

4. Among the routes included in applicant's operations as such common carrier is a route extending between Fort Wayne, Indiana, and Grand Rapids, Michigan, over and along which route applicant renders service to and from points in the States of Indiana and Michigan proposed to be served by the said The Willett

Company of Indiana, Inc., under and by virtue of a Certificate of Public Convenience and Necessity authorized to be issued under the terms of the said order and decision of the Interstate Commerce Commission.

24 5. Applicant was a party to said proceedings so pending before the Interstate Commerce Commission, appearing as a protestant therein, participating by counsel in said proceeding, presenting evidence in support of its protest therein and filing exceptions to the recommended order of the examiner in said proceedings. Wherefore, applicant joins in the original plaintiff's demand for judgment herein and moves the Court for an order making it a party plaintiff herein in accordance with the provisions of Title 28 U. S. C. 45a and Rule 24 (a) (1) of the Federal Rules of Civil Procedure.

NORWALK TRUCK LINE COMPANY,  
By FRED I. KING,  
Fred I. King,

*Its Attorney.*

25

In United States District Court

*Order granting leave to intervene.*

Feb. 25, 1944

This cause coming on to be heard on the motion of Norwalk Truck Line Company for leave to intervene as a party plaintiff, and the Court having considered said motion,

It is ordered, that Norwalk Truck Line Company has leave to intervene in this cause, and is hereby made a party plaintiff with like effect as if named an original party to this cause.

27

In United States District Court

*Precept*

Filed March 9, 1944

HOWELL ELLIS

ATTORNEY AT LAW

520 Illinois Building, Indianapolis, Indiana (4)

MARCH 9, 1944.

Re: Harry A. Parker d/b/a Parker Motor Freight, plaintiff v. United States of America, defendant. Civil Action No. 781, In the District Court of the United States for the Southern District of Indiana, Indianapolis Division

Mr. ALBERT C. SOGEMEIER, Clerk,

*United States District Court for the Southern District of  
Indiana,*

*Indianapolis Division, Indianapolis, Indiana.*

DEAR MR. SOGEMEIER: I am enclosing herewith two (2) copies of the Complaint in the above-entitled cause. In accordance with Rule 4 (4) of the Rules of Civil Procedure, you will please cause process to be issued directed to Francis Biddle, Attorney General of the United States at Washington, D. C., returnable thirty days after service, and cause one copy of the complaint to be served with such process by the United States Marshal by registered mail to said Attorney General, and cause the United States Marshal to forward the other copy of the Complaint by registered mail to W. P. Bartel, Secretary of the Interstate Commerce Commission, Interstate Commerce Commission Building, Washington, D. C.

Yours very truly,

(S) HOWELL ELLIS,  
Howell Ellis,

HE:LL.

Encls.

28 And thereupon there was issued out of the office of the Clerk of this Court a writ of summons for service upon Francis Biddle, Attorney General of the United States and W. P. Bartel, Secretary of Interstate Commerce Commission, Washington, D. C. to the United States Marshal.

30

In United States District Court

[Title omitted.]

The undersigned, having been duly admitted to practice in the said Court, hereby enter

*Appearance*

for The Pennsylvania Railroad Company, a corporation as Intervening Defendant in the above-entitled cause.

(S) OSCAR LINDSTRAND,  
*Attorneys.*

Address: 652 Union Station Bldg., Chicago 6, Illinois.

32

In United States District Court

[Title omitted.]

*Intervention of Interstate Commerce Commission*

Filed April 10, 1944

*To the Honorable the Judges of said Court:*

In accordance with the provisions of section 212 of the Judicial Code, 36 Stat. L. 1150 (U. S. Code, Sup. VI, title 28, Sec. 45a), we hereby enter the appearance of the Interstate Commerce Commission as a party defendant, and of ourselves, as its counsel, in the above-entitled suit.

INTERSTATE COMMERCE COMMISSION,  
By (S) DANIEL W. KNOWLTON, *Chief Counsel.*  
(S) DANIEL H. KUNKEL, *Attorney.*

34

In United States District Court

[Title omitted.]

*Answer of Interstate Commerce Commission*

Filed April 10, 1944

Now comes the Interstate Commerce Commission, defendant-intervenor, by its counsel, and in answer to the complaint in this case respectfully represents:

1. The Commission admits the factual matters set forth in paragraphs 1, 2, 3, 4, and 5 of the complaint, except that it denies that the proposed motor carrier operations authorized by the order of September 25, 1943, will compete with the motor carrier operations of plaintiff.

2. The Commission denies the allegations of paragraphs 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 of the complaint.

Wherefore, The Commission prays that the complaint be dismissed.

INTERSTATE COMMERCE COMMISSION,  
By S. DANIEL H. KUNKEL, *Attorney.*  
S. DANIEL W. KNOWLTON, *Chief Counsel,*  
*Of Counsel.*

35

## CERTIFICATE OF SERVICE

I hereby certify that I served the within answer upon counsel for all parties in the above suit by depositing the same in the United States Mail in franked envelopes addressed as follows: Kit F.

Clardy, Esq., Olds Tower, Lansing, Mich.; Howell Ellis, Esq., 525 Illinois Building, Indianapolis, Ind.; Robert L. Pierce, Esq., Special Assistant to the Attorney General, Department of Justice, Washington, D. C.; Fred I. King, Esq., 1008 Odd Fellows Building, Indianapolis, Ind.

S DANIEL H. KUNKEL,

*Attorney,*

*For Interstate Commerce Commission.*

37.

In United States District Court

[Title omitted.]

*Answer of the United States of America*

Filed April 21, 1944

Now comes the United States of America, a defendant in the above-styled cause, and in answer to the complaint herein, answers and says:

1. This defendant admits the allegations contained in paragraphs 1, 2, 3, 4, and 5 of the complaint, insofar as the said allegations relate to matters of fact and not conclusions of law, except that this defendant denies that the proposed motor carrier operations authorized by the Interstate Commerce Commission's order of September 25, 1943, will compete with the motor carrier operations of plaintiff.

2. This defendant denies the allegations of paragraphs 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 of the complaint, insofar as said allegations relate to matters of fact and not conclusions of law.

38 Wherefore this defendant prays that the relief prayed for in the complaint be denied, and that the complaint be dismissed at plaintiff's cost, and that upon final hearing and consideration of this cause, any stipulation, agreement, or order of this Court, entered into or entered at the hearing held on February 25, 1944, upon plaintiff's application for a temporary injunction, by virtue of which any defendant may have been bound, with a view to affording any temporary or interlocutory relief to plaintiff, be rescinded, vacated, and declared to be henceforth inoperative, null, and void.

S EDWARD DUMBAULD,

Edward Dumbauld,

*Special Assistant to the Attorney General,*

*Department of Justice, Washington 25, D. C.*

WENDELL BERGE,

*Assistant Attorney General.*

B. HOWARD CAUGHRAN,

*United States Attorney.*



39 I certify that a copy of the foregoing answer was this day mailed to the following persons: Kit F. Clardy, Esquire, Olds Tower, Lansing 8, Michigan; Howell Ellis, Esquire, 525 Illinois Building, Indianapolis, Indiana; Daniel H. Kunkel, Esquire, Interstate Commerce Commission, Washington 25, D. C.; Fred I. King, Esquire, 1008 Odd Fellows Bldg., Indianapolis, Indiana; Kirkwood Yockey, Esquire, 1250 Consolidated Bldg., Indianapolis, Indiana.

S EDWARD DUMBAULD,  
Edward Dumbauld,  
*Special Assistant to the Attorney General.*

APRIL 17, 1944.

41 In United States District Court

[Title omitted.]

The undersigned, having been duly admitted to practice in the said Court, hereby enter

*Appearance*

for The Willett Company of Indiana, Inc., Intervenor in the above-entitled cause.

(S) HARRY E. YOCKEY,  
*Attorneys.*

Address: 1250 Consolidated Bldg., Indianapolis, Ind.

43 In United States District Court

[Title omitted.]

The undersigned, having been duly admitted to practice in the said Court hereby enter

*Appearance*

for The Pennsylvania Railroad Company, as intervening deft. in the above-entitled cause.

(S) A. M. DONNAN,  
*Attorneys.*

Address 925 Pennsylvania Station, Pittsburgh, Pa.

22 I. C. C. ET AL. VS. HARRY A. PARKER ET AL.

45 In United States District Court

[Title omitted.]

The undersigned, having been duly admitted to practice in the said Court hereby enter

*Appearance*

for Intervenor Defendant The Willett Co. of Ind., Inc., in the above-entitled cause.

(S) KIRKWOOD YOCKEY,  
*Attorneys.*

Address: 1250 Consolidated Bldg., Indianapolis 4, Ind.

47 In United States District Court

[Title omitted.]

The undersigned, having been duly admitted to practice in the said Court hereby enter

*Appearance*

for O. I. M. Transit Corp., Fort Wayne, Ind., Days Transfer Co., Elkhart, Ind., in the above-entitled cause.

(S) CLAUDE H. ANDERSON,  
*Attorneys.*

Address: 601 Illinois Bldg., Indianapolis, Ind.

49 In United States District Court

[Title omitted.]

*Intervening Petition of the Pennsylvania Railroad Company*

Filed April 28, 1944

The petitioner, The Pennsylvania Railroad Company, respectfully represents and shows to the Court that it has an interest in the above-entitled cause of action and is entitled to be admitted as a party thereto as follows, to wit:

1. The above entitled cause of action is brought by the plaintiff for a temporary restraining order, temporary injunction, per-

manent restraining order, and permanent injunction to prevent the defendant through its legally constituted regulatory body, the Interstate Commerce Commission, from issuing certificate of public convenience and necessity No. MC-2815 Sub. No. 6 to The Willett Company of Indiana, Inc., in accordance with an order of said Interstate Commerce Commission in Docket No. MC-2815 Sub No. 6, decided September 25, 1943.

2. That under the terms and provisions of said order the Interstate Commerce Commission will issue a certificate of public convenience and necessity to said The Willett Company of Indiana, Inc.; authorizing it to conduct motor carrier operations transporting freight for the petitioner. The Pennsylvania Railroad Company, on the bills of lading of The Pennsylvania Railroad Company over specified regular routes and serving specified cities and towns located on the rail line of The Pennsylvania Railroad Company between Fort Wayne, Indiana, and Mackinaw City, Michigan.

3. That the petitioner was a party to the said proceeding before the Interstate Commerce Commission, appearing therein as an intervener in support of the applicant therein, The Willett Company of Indiana, Inc.

4. That the petitioner believes that said The Willett Company of Indiana, Inc., is legally entitled to said certificate of convenience and necessity No. MC-2815 Sub No. 6.

Wherefore said petitioner, The Pennsylvania Railroad Company, respectfully prays for leave to intervene and be made a party in the above-entitled cause so that it may be treated as a party defendant therein with the right to appear and be heard in all further proceedings therein.

THE PENNSYLVANIA RAILROAD  
COMPANY,

By (S) OSCAR LINDSTRAND,  
Oscar Lindstrand,  
552 Union Station Building,  
Chicago 6, Illinois.

By (S) A. M. DONNAN,  
A. M. Donnan,  
925 Pennsylvania Station,  
Pittsburgh 22, Pennsylvania,  
Its Attorneys.

51 [Duly sworn to by Oscar Lindstrand; jurat omitted in printing.]

52 I certify that a copy of the foregoing Intervening Petition was this day mailed to, or delivered in person to the following persons: Kit F. Clardy, Esquire, Olds Tower, Lansing,

Michigan; Howell Ellis, Esquire, 525 Illinois Building, Indianapolis, Ind; Daniel H. Kunkel, Esquire, Interstate Commerce Commission, Washington, 25, D. C.; Fred I. King, Esquire, 1008 Odd Fellows Building, Indianapolis, Indiana; Harry E. Yockey, Esquire, Kirkwood Yockey, Esquire, 1250 Consolidated Building, Indianapolis, Indiana; Edward Dumbauld, Esquire, Office of Attorney General of the United States, Washington, D. C.

(S) OSCAR LINDSTRAND,  
Oscar Lindstrand,  
Attorney for Petitioner,  
*The Pennsylvania Railroad Company.*

APRIL 28, 1944.

53

In United States District Court.

[Title omitted.]

*Answer of the Pennsylvania Railroad Company*

Filed April 28, 1944

Now comes The Pennsylvania Railroad Company, one of the intervening defendants in the above-styled cause, and in answer to the complaint herein answers and says:

1. This intervening defendant admits the allegations contained in paragraphs 1, 2, 3, 4, and 5 of the complaint insofar as the allegations relate to matters of fact and not conclusions of law, except that this intervening defendant denies that the proposed motor carrier operations authorized by the Interstate Commerce Commission's order of September 25, 1943, will compete with the motor carrier operations of plaintiff. It also denies that plaintiff Parker serves all points involved north of Grand Rapids, and in particular denies that he serves any intermediate points between Grand Rapids and Cadillac and Lake City; and denies that plaintiffs and/or "other motor carriers" serve all points sought by applicant.

2. This intervening defendant denies the allegations of paragraphs 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 of the complaint, insofar as said allegations relate to matters of fact and not conclusions of law.

Wherefore this intervening defendant prays that the relief prayed for in the complaint be denied, and that the complaint be dismissed at plaintiff's cost, and that upon final hearing and consideration of this cause, any stipulation, agreement, or order of this Court, entered into or entered at the hearing held on

February 25, 1944, upon plaintiff's application for a temporary injunction, by virtue of which any defendant may have been bound, with a view to affording any temporary or interlocutory relief to plaintiff, be rescinded, vacated, and declared to be henceforth, inoperative, null, and void.

(S) OSCAR LINDSTRAND,  
Oscar Lindstrand,

(S) A. M. DONNAN,  
A. M. Donnan,

*Attorneys for Intervening Defendant,  
The Pennsylvania Railroad Company.*

55 I certify that a copy of the foregoing answer was this day mailed to, or delivered in person to the following persons: Kit F. Clardy, Esquire, Olds Tower, Lansing, Michigan; Howell Ellis, Esquire, 520 Illinois Building, Indianapolis, Indiana; Daniel H. Kunkel, Esquire, Interstate Commerce Commission, Washington 25, D. C.; Fred I. King, Esquire, 1008 Odd Fellows Building, Indianapolis, Indiana; Harry E. Yockey, Esquire, Kirkwood Yockey, Esquire, 1250 Consolidated Building, Indianapolis, Indiana; Edward Dumbauld, Esquire, Office of Attorney General of the United States, Washington, D. C.

(S) OSCAR LINDSTRAND,  
Oscar Lindstrand,

*Attorney for Intervening Defendant,  
The Pennsylvania Railroad Company.*

APRIL 28, 1944.

56 Comes now The Willett Company of Indiana, Inc., by its attorneys and files motion to intervene as party defendant, leave to intervene having heretofore been granted, and also files answer to the complaint.

57 In United States District Court

[Title omitted.]

[File endorsement omitted.]

*Motion for leave to intervene*

(Filed April 28, 1944)

The petitioner, The Willett Company of Indiana, Inc., would respectfully represent and show to the Court that it has an interest in the above-entitled cause of action and is entitled to be admitted as a party thereto in this, to-wit:



Said petitioner is informed and believes that the above entitled cause of action is brought by the plaintiff for a temporary restraining order, temporary injunction, permanent restraining order, and permanent injunction to prevent the defendant through its legally constituted regulatory body, the Interstate Commerce Commission from issuing certificate of public convenience and necessity No. MC-2815 Sub No. 6 to the petitioner, The Willett Company of Indiana, Inc., in accordance with an order of said Interstate Commerce Commission in Docket No. MC-2815 Sub No. 6 decided September 25, 1943.

That under the terms and provisions of said order No. MC-2815 Sub No. 6, the Interstate Commerce Commission will issue a certificate of public convenience and necessity to said The Willett

Company of Indiana, Inc., authorizing it to conduct motor  
58 carrier operations transporting freight for The Pennsylvania Railroad Company, on the bills of lading of The Pennsylvania Railroad Company over specified regular routes and serving specified cities and towns located on the rail line of The Pennsylvania Railroad Company between Fort Wayne, Indiana, and Mackinaw City, Michigan.

That the petitioner believes that said The Willett Company of Indiana, Inc., is legally entitled to said certificate of public convenience and necessity No. MC-2815 Sub No. 6.

Wherefore said petitioner, The Willett Company of Indiana, Inc., respectfully moves the Court for leave to intervene and be made a party in the above entitled proceedings so that it may be treated as a party defendant therein with the right to have notice and to appear at the taking of testimony, produce and cross-examine witnesses, to be heard in person or by counsel upon brief, and at oral argument if oral argument is granted, and for all other necessary and proper relief in the premises.

THE WILLETT COMPANY OF INDIANA, INC.

By HARRY E. YOCKEY,

Harry E. Yockey, *Its Attorney.*

[*Duly sworn to by Harry E. Yockey; jurat omitted in printing.*]

60 I certify that a copy of the foregoing answer was this day mailed to, or delivered in person, to the following persons: Kit F. Clardy, Esquire, Olds Tower, Lansing, Michigan; Howell Ellis, Esquire, 525 Illinois Building, Indianapolis, Indiana; Daniel H. Kunkel, Esquire, Interstate Commerce Commission, Washington, D. C.; Fred I. King, Esquire, 1008 Odd Fellows Building, Indianapolis, Indiana; Kirkwood Yockey, Esquire, 1250 Consolidated Building, Indianapolis, Indiana; Edward Dumbauld, Esquire, Office of Attorney General of the United States, Washington,

D. C.; Oscar Lindstrand, Esquire, 626 Union Station Building, Chicago, Illinois.

HARRY E. YOCKEY,  
Harry E. Yockey,  
Attorney for Petitioner,  
*The Willett Company of Indiana, Inc.*

APRIL 28, 1944.

This is to certify that I received a copy of the foregoing motion, this 28th day of April 1944.

(S) B. HOWARD CAUGHRAN,  
U. S. Attorney.

61 In United States District Court

[Title Omitted.]

[File endorsement Omitted.]

*Answer of The Willett Company of Indiana, Inc.*

Filed April 28, 1944

Now comes The Willett Company of Indiana, Inc., one of the intervening defendants in the above-styled cause, and in answer to the complaint herein, answers and says:

1. This intervening defendant admits the allegations contained in paragraphs 1, 2, 3, 4, and 5 of the complaint insofar as the allegations relate to matters of fact and not conclusions of law, except that this intervening defendant denies that the proposed motor carrier operations authorized by the Interstate Commerce Commission's order of September 25, 1943, will compete with the motor carrier operations of plaintiff. It also denies that plaintiff Parker serves all points involved north of Grand Rapids, and in particular denies that he serves any intermediate points between Grand Rapids and Cadillac and Lake City; and denies that plaintiffs and/or "other motor carriers" serve all points sought by applicant.

2. This intervening defendant denies the allegations of paragraphs 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 of the complaint, insofar as said allegations relate to matters of fact and not conclusions of law.

Wherefore this intervening defendant prays that the relief prayed for in the complaint be denied, and that the complaint be dismissed at plaintiff's cost, and that upon final hearing and consideration of this cause, any stipulation, agreement, or order of this Court, entered into or entered at the hearing held on February 25, 1944, upon plaintiff's application for a temporary injunction

tion, by virtue of which any defendant may have been bound, with a view to affording any temporary or interlocutory relief to plaintiff, be rescinded, vacated, and declared to be henceforth inoperative, null, and void.

HARRY E. YOCKEY,

Harry E. Yockey,

*Attorney for Intervening Defendant,*

*The Willett Company of Indiana, Inc.*

KIRKWOOD YOCKEY, *Of Counsel.*

63 I certify that a copy of the foregoing answer was this day mailed to, or delivered in person, to the following persons: Kit F. Clardy, Esquire, Olds Tower, Lansing, Michigan; Howell Ellis, Esquire, 520 Illinois Building, Indianapolis, Indiana; Daniel H. Kunkel, Esquire, Interstate Commerce Commission, Washington 25, D. C.; Fred I. King, Esquire, 1008 Odd Fellows Building, Indianapolis, Indiana; Kirkwood Yockey, Esquire, 1250 Consolidated Building, Indianapolis, Indiana; Edward Dumbauld, Esquire, Office of Attorney General of the United States, Washington, D. C.; Oscar Lindstrand, Esquire, 626 Union Station Building, Chicago, Illinois.

HARRY E. YOCKEY,

Harry E. Yockey,

*Attorney for Intervening Defendant,*

*The Willett Company of Indiana, Inc.*

APRIL 28, 1944.

This is to certify that I received a copy of the foregoing answer, this 28th day of April 1944.

(S) B. HOWARD CAUGHRAN,

*U. S. Attorney.*

64

In United States District Court

*Order granting leave to intervene*

April 28, 1944

Come now Regular Common Carrier Conference of The American Trucking Associations, Inc.; Motor Carriers Central Freight Association; Consolidated Freight Company; and Creston Transfer Company, by their attorneys and file petition for leave to intervene which petition is granted and said parties are given leave to intervene.

65

## In United States District Court

[Title omitted.]

*Petition for leave to intervene*

Filed April 28, 1944

Now come Regular Common Carrier Conference of the American Trucking Associations, Inc., a District of Columbia corporation; Motor Carriers Central Freight Association, a Michigan corporation; Consolidated Freight Company, a Michigan corporation; and Creston Transfer Company, a Michigan corporation, by their attorneys K. F. Clardy, Robert E. DesRoches and Howell Ellis, and respectfully pray this Court for leave to intervene, and for reasons therefor say:

## I

That the American Trucking Associations, Inc., is a corporation recognized under the laws of the District of Columbia with general offices at 1424 16th Street NW, Washington, D. C., and is a national organization of the trucking industry and is owned and maintained by said industry. That the said membership includes most of the common motor carriers in the United States; that such carriers are operating in interstate commerce under the authority of the Interstate Commerce Commission; that many of said members are operating in competition with the Pennsylvania Railroad Company and with the various motor carrier subsidiaries of that railroad, including The Willett Company of Indiana, Inc.

66

## II

That the said American Trucking Associations, Inc., is authorized to and does regularly appear for and on behalf of its members in many proceedings before the Interstate Commerce Commission and particularly in proceedings of the type and kind involved in this present litigation; that it is at present actively participating as a plaintiff in a cause entitled American Trucking Associations, Inc., et al. vs. United States of America and now pending before the District Court of the United States for the District of Virginia; that among the issues in that said proceeding is a series of questions involved in this proceeding; that chief among those issues is the question of whether or not a railroad or its subsidiary shall be granted a motor carrier certificate without presenting the same kind and measure of proof required from independent motor carrier applicants.

## III

That the issues in this case are regarded by the said association and its membership as being of vital importance to the future of the trucking industry as a whole and of its individual members; that if the tests prescribed by the Commission in the order complained of in this cause are not held to be improper and unlawful it will make it impossible for any member of this association to successfully oppose any application anywhere in the United States filed by any railroad or its subsidiary; that for all practical purposes the said Commission order in this case has said in effect that the Commission has and will hereafter apply one interpretation of the statute to independent motor carrier applicants and a wholly different test to all railroads or railroad-owned subsidiaries who seek motor carrier certificates; that for this and other reasons, therefore, this intervenor and its membership have a most vital interest in this cause and its disposition.

## IV

That Motor Carriers Central Freight Association is a Michigan corporation whose membership is composed of common motor carriers operating in interstate commerce under the authority of the Interstate Commerce Commission in a large number of states including Michigan and Indiana; that many of its members are in direct competition with the Pennsylvania Railroad; that many of its members will be in direct competition with the motor carrier operations being considered in the above entitled cause; that in particular several of its members operate between Fort Wayne and Kalamazoo, Grand Rapids, Muskegon and other points involved in the said proceeding; that its position with regard to the issues and the effect of the grant of the proposed authority is the same as that of American Trucking Associations, Inc.; that if the said authority is granted, the said Willett Company of Indiana, Inc., will be in a position to and undoubtedly will take a substantial portion of the business now enjoyed by these said carriers; that because of its relationship with its parent the Pennsylvania Railroad, the said carrier will be able to operate at lower rates and do many things ordinary common motor carriers are not permitted to do because of the discriminatory manner in which the statute is being applied; that it will be able to operate at lower rates because the railroad will finance any deficit and thus enable the carrier to offer service below cost. This will permit unfair competition and tend to develop a monopoly. That for these and many other reasons this intervenor has a most substantial interest in the case and in its disposition.



## V

That the Consolidated Freight Company is a Michigan corporation holding a common motor carrier certificate duly issued to it by the Interstate Commerce Commission in Docket No. MC 30897; that the authority thus conferred upon it contains among  
68 other rights a number of routes involved in the certificate authorized by the Commission to be issued to the said Willett Company of Indiana, Inc.; that among such routes are the following: Grand Rapids to Cadillac; Grand Rapids and Muskegon; Constantine and Kalamazoo and other points.

## VI

That the said Consolidated Freight Company is and will be in competition with the said Willett Company of Indiana, Inc., and its parent, the Pennsylvania Railroad Company; that it is presently transporting commodities generally between many points in interstate commerce transferred to it by other carriers competing with Railroad Company; that, in addition, it handles freight in interstate commerce transferred to it by other carriers competing with the said Pennsylvania Railroad; that it also transfers freight to carriers competing with the said railroad; that the same thing is true with respect to freight interchanged with other carriers now operating between the points and over the routes involved in the proposed certificate; that it is in direct and open competition on the handling of freight in interstate commerce, therefore, to and from the points and over the routes involved in the proposed certificate.

## VII

That if the said authority is granted to the said Willett Company of Indiana, Inc., and it is permitted to commence operations, the said competition now existing will be increased in an unlawful manner and will cause harm and damage to this intervenor of a kind and nature it is difficult to compute; that such injury will be substantial; that its objection to the said certificate are the same as those advanced for the American Trucking Associations, Inc., and by the plaintiff, Parker Motor Freight.

## VIII

That the Creston Transfer Company is a common motor carrier engaged in operation between many points in many states; that such operations are carried on under authority of a certificate issued to it by the Interstate Commerce Commission in Docket No. MC-18176; that under such authority it is presently competing with the Pennsylvania Railroad Company over every one of the routes involved in the said certificate and to and from all of the

points thereon; that, in addition, it is in competition with the said railroad at every point served by that said railroad in Michigan, Illinois, Indiana, Ohio, Pennsylvania, New York and other states; that for this reason, the proposed certificate will be particularly harmful and injurious to this intervenor; that it adopts and makes its own the various allegations set out in the Bill of Complaint in this cause and set out above in this petition for leave to intervene on behalf of the American Trucking Associations, Inc., Motor Carriers Central Freight Association, and Consolidated Freight Company.

## IX

Because your petitioners are fearful that the representation of their interest by the existing plaintiff is or may be inadequate and your petitioners are and may be bound by any judgment or decree entered in the action.

## X

Because your petitioners have a vital interest in any final decision that the Court might enter in this cause and unless your petitioners are granted leave to intervene as party plaintiffs so as to protect their interests, your petitioners will suffer great and irreparable harm and damage in the excess of \$3,000.00.

This petition is based upon the files and records in this cause, Rule No. 24 of Rules of Civil Procedure and the  
70 Statutes of the United States in such case made and provided.

Wherefore, the said Regular Common Carrier Conference of the American Trucking Associations, Inc., Motor Carriers Central Freight Association, Consolidated Freight Company and Creston Transfer Company now respectfully pray this Honorable Court for leave to intervene in the said cause and to take part in all proceedings therein.

Respectfully submitted.

REGULAR COMMON CARRIER CONFERENCE OF THE  
AMERICAN TRUCKING ASSOCIATIONS, INC.,  
MOTOR CARRIERS CENTRAL FREIGHT ASSOCIATION,  
CONSOLIDATED FREIGHT COMPANY,  
CRESTON TRANSFER COMPANY,

By S K. F. CLARDY,  
S ROBERT E. DES ROCHES,

*Attorneys for Intervenor.*

Of Counsel:

HOWELL ELLIS,

Dated Lansing, Michigan, April 26th, 1944.

71 [Duly sworn to by K. F. Clardy and Robt. E. Des Roches;  
jurat omitted in printing.]

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## In United States District Court

*Minute entry of submission*

April 28, 1944

Come now the parties by their respective attorneys and this cause now coming on to be heard upon final hearing before a duly constituted District Court of three judges convened pursuant to the provisions of law, and the evidence and argument of counsel being heard the defendants and the intervenors are given to and including May 18, 1944, and the plaintiff is given to and including May 29, 1944, within which to file their respective briefs and submit drafts of special findings of fact and conclusions of law, thereafter this cause is to be finally submitted.

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## In United States District Court

[Title omitted.]

*Special findings of fact and conclusions of law submitted by intervening defendant, the Willett Company of Indiana, Inc.*

May 18, 1944

Comes now the intervening defendant, The Willett Company of Indiana, Inc., at the time of filing its brief herein, and submits its special findings of fact and conclusions of law as follows:

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

This cause came on to be heard before a statutory Court consisting of the Honorable Sherman Minton, Circuit Judge, and Robert C. Baltzell and Luther M. Swygert, District Judges, upon application of the plaintiff for a temporary restraining order and temporary injunction to enjoin and suspend until further order of the Court the operation, execution, effect and enforcement of the orders of the Interstate Commerce Commission bearing dates of September 25, 1943, and February 8, 1944, wherein the Commission authorized the granting of a Certificate of Convenience and Necessity under No. MC-2815 Sub No. 6 to The Willett Company of Indiana, Inc., granting it authority as a common carrier of property by motor vehicle to operate seven (7) routes substantially paralleling the Pennsylvania Railroad in a station-to-station rail-truck service in interstate and foreign commerce in substitution of railroad way-car service on the Pennsylvania Railroad covering said routes in the transportation of commodities generally in less than carload lots.

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The complaint is brought under Title 28, U. S. Code, Section 41, subdivision 28 and Sections 43, 44, 45, 46, 47, 47a and 48 and under Title 49, U. S. Code, Sections 17 (9) and 305 (g) (h) (being Sections 17 (9) and 205 (g) (h) of the Interstate Commerce Act), and alleges that the order is unlawful, was arbitrarily and capriciously determined, that wrong tests in the application of law were applied by the Commission, that it did not contain the proper findings on material issues, questions of fact and law, that it was an unreasonable and arbitrary exercise of power, and that the Commission wholly omitted to give any consideration to any controlling facts in the case.

Norwalk Truck Lines Company, American Trucking Association, Motor Carriers Central Freight Association, Consolidated Freight Company, and Creston Transfer Company intervened in support of the plaintiff, and The Willett Company of Indiana, Inc., and The Pennsylvania Railroad Company intervened in support of the defendants. Counsel representing plaintiffs, defendants, and interveners were present at the hearing when evidence taken before the Commission was introduced together with certain orders made and entered by the Commission. The case was submitted for final decree and determination.

The Court being fully advised in the premises, and pursuant to Rule 52 of the Rules of Civil Procedure, makes the following findings of fact and conclusions of law:

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*Findings of fact*

I. The intervening defendant, The Willett Company of Indiana, Inc., is a resident of and maintains its principal place of business within the jurisdiction of the Court.

II. The interfering defendant, The Willett Company of Indiana, Inc., filed with the Commission an application under Section 207-(a) of the Motor Carrier Act of 1935 (49 United States Code, Sup. I, Title 49, Section 307-a), seeking as amended a Certificate of Convenience and Necessity authorizing an extension of operation as a common carrier by motor vehicle in interstate and foreign commerce of general commodities with certain exceptions in less than carload lots over seven (7) specified regular routes between specified points in the States of Indiana and Michigan.

III. That the service sought by applicant is a station-to-station operation which is auxiliary to, and supplemental of, rail service of The Pennsylvania Railroad in a substituted rail-truck service by motor vehicle in lieu of service being rendered by the Pennsylvania Railroad in way-cars.

IV. After hearing, the Commission found that the proposed operations will be conducted in the same manner and under the

same conditions as were considered and discussed at some length by Division 5 in *The Willett Company of Indiana, Inc.*, extension—Illinois, Indiana, and Kentucky, 21 M. C. C. 405, and in *Kansas City Southern Transport Company, Inc.*, common carrier application, 28 M. C. C. 5. That it is a new form of service utilizing both rail and motor carrier transportation to advantage and in such a way as to render a merchandise service which is much less expensive and at the same time more expeditious and more convenient and generally satisfactory to the public served. That applicant has been performing such service in conjunction with the railroad over its 25 other routes since prior to October 15, 1935, and that it was clearly shown that many benefits are derived from such coordinated service. That the proposed service will effectuate a reduction of cost and will result in an increase in efficiency in the transportation over the routes under consideration, which will inure to the benefit of the general public; that it does not appear that the restricted service will be directly competitive with or unduly prejudicial to the operations of any other motor carrier. That the Commission was not impressed with protestant's contentions and were of the opinion that the proposed coordinated service will serve a useful public purpose, and that such useful public purpose cannot be served as well by existing motor carriers; that applicant is able financially and otherwise to conduct the described operation; that the proposed service will be auxiliary to, supplemental of, and coordinated with, the rail service of *The Pennsylvania Railroad Company* and all points to be served are stations on the lines of the railroad. That future public convenience and necessity require the operation by applicant as a common carrier by motor vehicle in interstate or foreign commerce of general commodities between the points and over the routes shown in the application, serving intermediate and off-route points which are stations on the rail line of *The Pennsylvania Railroad Company*.

V. The said order contained the following restrictions:

1. The service to be performed by applicant shall be limited to service which is auxiliary to, or supplemental of, rail service of *The Pennsylvania Railroad Company*, hereinafter called the railroad.

2. Applicant shall not serve any point not a station on the rail line of the railroad.

3. No shipments shall be transported by applicant as a common carrier by motor vehicle between any of the following points, or through or to or from more than one of the said points: Fort Wayne, Ind., and Grand Rapids, Mich.

4. All contractual arrangements between applicant, the railroad, and the American Contract and Trust Company shall be reported



to us and shall be subject to revision, if and as we find it to be necessary in order that such arrangements shall be fair and equitable to the parties.

5. Such future specific conditions as we, in the future, may find it necessary to impose in order to restrict applicant's operation to service which is auxiliary to, or supplemental of, rail service.

VI. Plaintiffs complain that the order is unlawful, was arbitrarily and capriciously determined, that wrong tests in the application of law were applied by the Commission, that it did not contain the proper findings on material issues, questions of fact and law, that it was an unreasonable exercise of power, and that the Commission wholly omitted to give any consideration to controlling facts in the case.

VII. The plaintiff filed a petition for reconsideration by the Commission, which petition was denied.

VIII. At the hearing of this case plaintiffs introduced in evidence a copy of a portion of the record before the Commission, upon which the order under review was based, which was the only evidence introduced at the hearing.

#### *Conclusions of law*

I. The Court has jurisdiction of the action herein.

II. The Commission report and order of September 25, 1943, and order of February 8, 1944, were made after a full hearing.

79 III. The findings of fact upon which the order is based are supported by substantial evidence.

IV. The Commission order is supported by the findings of fact.

V. The Commission's construction of the pertinent provisions of the Act is correct and the order is lawful and valid.

VI. The Complaint should be and hereby is dismissed for want of equity.

Respectfully submitted.

(S) KIRKWOOD YOCKEY.  
Kirkwood Yockey,

(S) HARRY E. YOCKEY.  
Harry E. Yockey,

*Attorneys for Intervening Defendant,  
The Willett Company of Indiana, Inc.*

Harry E. Yockey, being first duly sworn, upon his oath says that he is one of the attorneys of record herein for The Willett Company of Indiana, Inc., an intervening defendant herein, and

that he has this 18th day of May 1944, served a true and correct copy of the foregoing special findings of fact and conclusions of law either by delivery in person or by first class mail, postage prepaid, to all parties of record herein at the following addresses, to wit: Kit F. Clardy, Esquire, Olds Tower, Lansing, Michigan; Howell Elks, Esquire, 520 Illinois Building, Indianapolis 4, Indiana; Daniel H. Kunkel, Esquire, Interstate Commerce Commission, Washington 25, D. C.; Fred I. King, Esquire, 1008 Odd Fellow Building, Indianapolis 4, Indiana; Edward Dumbauld, Esquire, Office of Attorney General of the United States, Washington, D. C.; Oscar Lindstrand, Esquire, 652 Union Station Building, Chicago 6, Illinois; Robert E. Des Roches, Esquire, 712 Olds Tower, Lansing, Michigan; Howard E. Caughran, Esquire, United States District Attorney, U. S. Court House and Post Office Building, Indianapolis, Indiana; John S. Powell, Esquire, 520 Illinois Building, Indianapolis 4, Indiana; Edward M. Reidy, Esquire, Interstate Commerce Commission, Washington 25, D. C.; Daniel W. Knowlton, Esquire, Interstate Commerce Commission, Washington 25, D. C.; Claude H. Anderson, Esquire, 601 Illinois Building, Indianapolis 4, Indiana; A. M. Donnan, Esquire, 925 Pennsylvania Station, Pittsburgh, Pennsylvania.

(S) HARRY E. YOCKEY,  
Harry E. Yockey.

Subscribed and sworn to before me this 18th day of May 1944.

[SEAL]

(S) EUGENE H. YOCKEY,

Notary Public.

My Commission expires March 31, 1948.

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In United States District Court

[Title omitted.]

*Proposed findings of fact and conclusions of law submitted by  
plaintiff and intervening plaintiffs*

May 29, 1944

This Court makes the following findings of fact:

1. This is a suit brought to set aside an order made September 25, 1943 by the Interstate Commerce Commission authorizing the issuance of a motor carrier certificate of convenience and necessity in a proceeding entitled The Willett Company of Indiana, Inc., Extension—Fort Wayne—Mackinaw City, Mich., Docket No. 2815 (Sub No. 6). The plaintiffs in this suit are motor carriers and associations of motor carriers which allege and which are in fact competitors of the above named applicant with respect to the operations authorized by the proposed certificate.

2. The application was filed by a subsidiary of the Pennsylvania Railroad on September 8, 1941 under the provisions of Section 207 (a) of the Motor Carrier Act. The application was for authority to conduct some seven separate operations of as many different routes roughly paralleling the lines of the Pennsylvania Railroad from Fort Wayne, Indiana to Mackinaw City, Michigan. Numerous competing motor carriers intervened and opposed the granting of the authority sought. Hearings were held and a proposed report was filed. Exceptions were taken to the proposed grant of authority. These Exceptions were denied and a Petition for Rehearing and Reconsideration was also denied.

3. A certified transcript of evidence in the proceeding discloses that the railroad, through an intermediate corporation, owned all of the stock in the applicant corporation. That the applicant was furnishing service to the railroad at other points on its system. That the operation here contemplated would serve certain named intermediate points on each of the seven routes. That these points are served by the railroad. That the operations would include the handling of merchandise transported by railroad to certain key points where it would be transferred to the motor carrier to be transported to these intermediate points. That, in addition, it would also include the handling of merchandise that would not have either a prior or subsequent rail movement. That it would, in fact, compete with existing motor carriers. That neither the applicant nor the railroad had any knowledge of existing transportation facilities. That the railroad would not make use of any existing motor carrier even if the service was superior to that proposed in this application.

4. The protesting motor carriers presented evidence to show that at least one of them could furnish service on all of the routes and that two or more carriers were in a position to furnish service on each of the seven separate routes. That some of the protestants were then engaged in furnishing precisely the same sort of service to the Pere Marquette in Michigan. That they could and would furnish the proposed service to the railroad if it desired to enter into an arrangement with them. That there is adequate motor carrier service over all of these routes. That the proposed operations do not differ from those of an ordinary motor carrier and the grant will place the applicant in competition with existing carriers.

5. The Commission order proposes to grant the applicant a certificate authorizing the operations exactly as requested by the applicant. The findings, statements and conclusions set out in the Commission order of September 25, 1943 are without support in the record. The evidence does not show that there is any public need to be served but, on the contrary, discloses that both rail and motor

carrier service now available is adequate and satisfactory. There is no fact of record recited to justify the Commission's conclusion that the new operation is required by the public convenience and necessity.

6. The order does not contain any proper findings of fact as required by law. The order does not set forth the basic facts upon which such a grant of authority must depend. The order recites some conclusions and arguments that are wholly contrary to the facts of record. The order does not contain a clear and concise statement of the facts or reasons upon which the case was decided and this Court is unable to discern the real basis for the order.

7. The protesting motor carriers were denied the right to introduce testimony going to the heart of the case. Many errors were committed in the receipt and rejection of evidence. The Commission refused to permit the protestants to see, examine and use the contract between the railroad and its subsidiary, although the contract was present at the hearing and inspected by the Joint Board. The Commission refused to permit the matter to be reopened to enable the protesting carriers to make use of the contract and thereby committed grave error.

85 8. The Commission erred in applying the wrong tests in the application of law; that the order of the Commission was an unreasonable exercise of power on the part of the Commission in that the order issued by the Commission has no basis in fact.

9. That the effect of the order of the Commission, as it now stands, will create a substantial monetary loss on the part of the motor carriers serving the territory embodied in the order in that the operations of The Willett Company are competitive to the operations of the plaintiff motor carriers in this cause.

#### CONCLUSIONS OF LAW

This Court makes the following findings of law:

1. This Court may review a Commission order granting a certificate of public convenience and necessity to a motor carrier applicant to determine whether or not the order contains a clear understandable statement of the facts and reasoning upon which the order is made. The Court finds that this order does not contain such a statement.

This Court may review such an order to determine whether or not the Commission has made findings of basic facts upon which the validity of the order depends. This Court finds that the order does not contain the required basic findings of fact.

2. This Court may review such a Commission order to determine whether or not the record contains evidence to support the

finding of fact and the conclusions set out in the said order. This Court finds that the order is not supported by the evidence.

4. This Court may review such an order to determine whether the Commission has omitted consideration of basic facts  
86 upon which the validity of the order depends. The Court finds that the order does omit consideration of basic facts.

5. This Court may review such an order to discover whether the Commission has decided the case upon shadow rather than substance. Here the order is without substance to support it.

6. This Court may review such an order to discover whether the Commission has misconceived the law and applied an erroneous interpretation in its determination. The Court holds that the Commission has misconceived and misapplied the statute.

7. The Commission committed grave error when it refused to receive evidence offered by the protestants attacking the testimony of shipper witnesses presented by the applicant. It committed error when it refused to permit the protestants to inspect and use the contract between the railroad and its subsidiary and to reopen the case to permit the protestants to examine and use it in presenting their case.

8. This Court is of the opinion that the right of the protestants to a fair hearing has been denied them and that all the rules of justice and equity have been violated by the actions of the Commission in its conduct of this proceeding.

9. The Commission order is unlawful and the grant of the certificate was an arbitrary and capricious act.

10. Proof that the Pennsylvania Railroad service will be improved is not proof that the public convenience and necessity requires the grant of a motor common carrier certificate to this applicant. The Commission misconceived its statutory duty in failing and refusing to accord fair and equal regulation to  
87 both rail and motor carriers in accordance with the requirements of the national transportation policy.

11. Public convenience and necessity cannot be established by showing that benefits will be received by the railroad owner of the applicant. The Commission misconceived the law and exceeded its statutory powers in assuming that it could substitute a finding of railroad convenience for the normal criteria for proof of public convenience and necessity required by Sec. 207.

12. The Commission erred by not taking into account the fact that existing common motor carriers could furnish the service.

13. The Commission misconceived the law, exceeded its powers, and failed to apply proper legal criteria, in assuming that the railroads could establish a showing of public convenience and necessity based upon the refusal of the railroads to cooperate with or coordinate services with those of independent motor carriers as contemplated by the national transportation policy.



14. An applicant for a motor common carrier certificate must show that there is no reasonably adequate motor common carrier service available to obtain a certificate of convenience and necessity. This was not done here.

15. The Commission misconceived its statutory duty and failed to apply proper legal criteria in connection with issues of convenience and necessity and in failing and refusing to consider whether the same public benefits would be obtained through coordination between railroads and independent motor carriers as might be obtained by duplication of facilities through railroad-owned motor carriers.

16. Applications for common motor carrier certificates cannot lawfully be granted on the basis of proof having to do only with the quality of railroad service available.

17. The fact that a railroad owns the applicant does not relieve it of the necessity of proving the same basic facts as any other applicant must do.

18. The fact that the service will be performed for a railroad does not alter the essential fact that the operation is that of a motor carrier and that the statute must be applied exactly as in any other case. Here this was not done. The Commission misconceived its power and duty in assuming that it could exempt railroad operated motor carrier rights from the tariff and accounting provisions of Sec. 216, 217, and 220.

19. The statute does not create any hybrid that is neither motor carrier nor railroad and it does not authorize the issuance of special authority to any such hybrid.

20. The Commission erred in holding that the applicant would perform a new form of service covering both rail and motor carrier transportation.

21. The Commission erred in its interpretation of the provisions of the Motor Carrier Act and, therefore, the said order is unlawful and invalid.

22. The Commission erred in applying one standard of proof for a railroad company, or subsidiary of a railroad company, covering the question of public convenience and necessity, in contrast to the standards laid down by the Commission in cases involving applicants that are common motor carriers.

Respectfully submitted.

KIT F. CLARDY,

712 Olds Tower, Lansing, Michigan,

ROBERT E. DESROCHES,

2379 National Bank Building, Detroit, Michigan,

HOWELL ELLIS, Attorneys for Plaintiff and Intervenor.

Of Counsel.

520 Illinois Building, Indianapolis, Indiana.

## In United States District Court

[Title omitted.]

*Findings of fact and conclusions of law*

June 1, 1944.

(Suggested by the United States and Interstate Commerce Commission)

In the above-entitled cause the court makes the following Findings of Fact:

1. This suit, instituted under authority of Sections 43 to 48, Title 28 of the U. S. Code, seeks to set aside and annul a certain order of the Interstate Commerce Commission dated September 25, 1943, in a proceeding known as the Willett Company of Indiana, Inc., Extension—Fort Wayne—Mackinaw City, Mich., Docket No. 2815 (Sub-No. 6).

2. The plaintiff and intervening plaintiffs are motor carriers and associations of motor carriers engaged in the transportation of property by motor vehicle within the territory involved in the proceeding before the Interstate Commerce Commission.

3. On September 8, 1941, Willett Company of Indiana, Inc., a subsidiary of the Pennsylvania Railroad, filed its application with the Commission under the provisions of Section 207 (a) of Part II of the Interstate Commerce Act for authority to conduct seven separate common carrier motor operations over routes substantially paralleling the lines of the Pennsylvania Railroad from Fort Wayne, Ind., to Mackinaw City, Mich., in a station to station rail-truck service in interstate commerce in substitution of railroad way-car service on the Pennsylvania Railroad covering said routes in the transportation of commodities generally in less than carload lots. Protests were filed to the granting of the authority there sought. Hearings were held and the Commission, Division 5, by report and order of September 25, 1943, granted the said application. Thereafter protestants filed petition for rehearing and reconsideration which by order of February 8, 1944, was denied by the full Commission.

4. The instant complaint was filed on February 21, 1944. Following answers by the defendant and intervening defendants the cause came on for final hearing on May 28, 1944, before this court, especially constituted of three judges, as required by the Urgent Deficiencies Act of October 22, 1913. On such hearing there was before the court, and the court considered, the entire record of the evidence before the Commission, including the transcript of

testimony, taken before the Commission and the exhibits introduced in evidence before the Commission.

5. The court adopts as and for its findings of fact, the findings of the Interstate Commerce Commission contained in said report of September 25, 1943.

92

## CONCLUSIONS OF LAW

1. This court has jurisdiction over the parties and the subject matter of this suit.

2. The Commission's report and order of September 25, 1943, contained essential findings disclosing a rational basis for the order.

3. The finding of the Commission that public convenience and necessity required the granting of said application was based upon statutory criteria.

4. The findings of fact set forth in said report of September 25, 1943, have substantial support in the evidence.

5. The rulings of the Commission with respect to the introduction or rejection of evidence involved no substantial error.

6. The order of the Commission of September 25, 1943, and of February 8, 1944, the latter denying the petition for reconsideration, were within its lawful authority and were not arbitrary or capricious.

7. The complaint is without equity and should be dismissed.

A decree dismissing the complaint is entered herein.

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*Circuit Judge.*

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*District Judge.*

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*District Judge.*

93

In United States District Court

*Minute entry of filing of Court's special findings of fact and  
Conclusions of law*

June 30, 1944

This cause coming on now to be finally heard by the Court, and the parties appearing by their respective attorneys, and the Court having heard the evidence and the argument of counsel and being sufficiently advised in the premises, now, pursuant to Rule 52 of the Rules of Civil Procedure, signs and files herein its special findings of fact and states its conclusions of law thereon, which said special

findings of fact and conclusions of law are ordered by the Court filed and made a part of the record in this cause, all of which is now done.

[Title omitted.]

[File endorsement omitted.]

*Special findings of fact and conclusions of law*

Filed June 30, 1944

*Special findings of fact*

Pursuant to Rule 52 of the Rules of Civil Procedure, this Court now states its Special Findings of Fact:

I

This is a suit brought under U. S. Code, Title 28, Chap. 2, Sec. 41 (28) and Sec. 43-48 inclusive to set aside an order made September 25, 1943, by the Interstate Commerce authorizing the issuance of a motor carrier certificate of convenience and necessity in a proceeding entitled The Willett Company of Indiana, Inc., Extension—Fort Wayne—Mackinaw City, Mich., Docket No. MC-2815 (Sub No. 6). The plaintiffs in this suit are motor carriers who are competitors of the above-named applicant with respect to the operations authorized by the proposed certificate and associations of motor carriers.

II

An application was filed with the Interstate Commerce Commission by The Willett Co. of Indiana, Inc., a subsidiary of the Pennsylvania Railroad on September 8, 1941 under the provisions of Section 207 (a) of Part II of The Interstate Commerce Act. The application was for authority to conduct seven separate  
95 operations on as many different routes paralleling the lines of the Pennsylvania Railroad from Fort Wayne, Indiana to Mackinaw City, Michigan. Numerous competing motor carriers intervened and opposed the granting of the authority sought. Hearings were held and a proposed report was filed. Exceptions and a Petition for Rehearing and Reconsideration were denied. Suit to set aside order was filed on February 21, 1944. Answers were duly filed on behalf of the United States, the Interstate Commerce Commission, and intervenors. Argument was had and the

cause submitted on final hearing on April 28, 1944. At the hearing plaintiff introduced in evidence a certified copy of the record before the Interstate Commerce Commission. This was all the evidence in the case.

### III

The operations proposed are motor carrier operations which would be competitive with existing motor carrier service. The railroad, however, refused to make use of any of the existing lines. The applicant's proof concerned an alleged improvement in railroad service. No proof was made or offered by the applicant or presented in evidence that present highway common motor carrier transportation service by duly certificated carriers operating in interstate or foreign commerce and serving the points proposed to be served by the applicant was or would be inadequate to serve the public need therefor. Proof was presented before the Commission by the plaintiff and other protestants concerning the adequacy of existing common motor carrier service. There was no substantial evidence to prove public convenience and necessity.

(S) SHERMAN MINTON,

*Judge, United States Circuit Court of Appeals.*

(S) ROBERT C. BALTZELL,

*Judge, United States District Court.*

(S) LUTHER M. SWYGERT,

*Judge, United States District Court.*

<sup>6</sup> Dated this 30 day of June 1944.

96

### *Conclusions of law*

Upon the above and foregoing Special Findings of Fact, the Court now states its Conclusions of Law, as follows, to wit:

#### I

The Court has jurisdiction of the subject matter and of the parties in this cause of action.

#### II

The applicant did not meet the statutory requirements and the Interstate Commerce Commission failed to exact from applicant, as a railroad subsidiary, the requisite proof to establish public convenience and necessity.



## III

There was no substantial evidence to support the order of the Interstate Commerce Commission that public convenience and necessity requires the issuance to applicant of a certificate of public convenience and necessity authorizing operations by motor vehicle as a common carrier of property over the routes involved, and the order is, therefore, illegal and void and should be permanently enjoined.

(S) SHERMAN MINTON,

*Judge, United States Court of Appeals.*

(S) ROBERT C. BALTZELL,

*Judge, United States District Court.*

(S) LUTHER M. SWYGERT,

*Judge, United States District Court.*

Dated this 30 day of June 1944.

97

In United States District Court

*Decree*

June 30, 1944

It is Therefore Ordered, Adjudged and Decreed by the Court that the order made and entered by the defendant, Interstate Commerce Commission as of September 25, 1943, in its Docket No. MC 2815 (Sub No. 6), entitled The Willett Company of Indiana, Inc., Extension—Fort Wayne—Mackinaw City, Mich., complained of in the complaint, is illegal and void, and the defendants, United States of America and Interstate Commerce Commission, and their officers, agents, servants, employees and attorneys, and all those persons in active concert or participation with them, who receive actual notice of this order by personal service or otherwise, should be and they are hereby permanently enjoined and prohibited from enforcing or attempting to enforce the same in any manner.

99

In United States District Court

[Title omitted.]

*Petition for appeal*

Filed Aug. 22, 1944

The Interstate Commerce Commission, The Willett Company of Indiana, Inc., and The Pennsylvania Railroad Company, intervening defendants in the above-entitled cause, feeling themselves aggrieved by the final decree of the United States District Court

for the Southern District of Indiana, Indianapolis Division, entered in said court on June 30, 1944, pray an appeal from said decree to the Supreme Court of the United States.

The particulars wherein said intervening defendants consider the decree erroneous are set forth in the assignment of errors accompanying this petition, to which reference is hereby made.

Said defendants pray that a transcript of the record, proceedings and papers on which said decree was made and entered, duly authenticated, be transmitted forthwith to the Supreme Court of the United States.

Dated August 22nd, 1944.

DANIEL W. KNOWLTON,  
*Chief Counsel,*

DANIEL H. KUNKEL,  
*Attorney,*

*For Interstate Commerce Commission.*

HARRY E. YOCKEY,

KIRKWOOD YOCKEY,

*For Willett Company of Indiana, Inc.*

H. Z. MAXWELL,

*For A. M. Donnan,*

H. Z. MAXWELL,

*For Oscar Lindstrand,*

H. Z. MAXWELL,

*For H. Z. Maxwell,*

H. Z. MAXWELL,

*For John Dickinson,*

*For The Pennsylvania Railroad Company.*

100

102 In the District Court of the United States for the Southern District of Indiana, Indianapolis Division

Civil Action No. 781

HARRY A. PARKER, DOING BUSINESS AS PARKER MOTOR FREIGHT,  
ET AL., PLAINTIFFS

v.

UNITED STATES OF AMERICA, ET AL., DEFENDANTS

*Assignment of errors*

Filed August 22, 1944

Come now the Interstate Commerce Commission, The Willett Company of Indiana, Inc., and The Pennsylvania Railroad Company, intervening defendants in the above-entitled cause, and file

the following assignment of errors upon which they shall rely in the prosecution of the appeal to the Supreme Court of the United States herewith petitioned for in said cause from the decree of the District court of the United States for the Southern District of Indiana, Indianapolis Division entered June 30, 1944:

1. The Court erred in holding that the operations proposed were motor carrier operations which would be competitive with existing motor carrier service.

2. The Court erred in holding that applicant's only proof concerned an alleged improvement in railroad service.

3. The Court erred in holding that there was no substantial evidence to prove public convenience and necessity.

4. The Court erred in substituting its judgment for that of the Commission upon purely administrative matters.

5. The Court erred in concluding that applicant did not meet the statutory requirements and that the Commission failed to exact from applicant, as a railroad subsidiary, the requisite  
103 proof to establish public convenience and necessity.

6. The Court erred in concluding that there was no substantial evidence to support the order of the Commission that public convenience and necessity required the issuance of a certificate of public convenience and necessity authorizing operation by motor vehicle as a common carrier of property over the routes involved.

7. The Court erred in concluding that the order of the Commission was illegal and void and should be permanently enjoined.

8. The Court erred in entering the final decree of June 30, 1944.

9. The Court erred in failing to find that the complaint was without equity.

10. The Court erred in failing to dismiss the complaint. Dated August 22, 1944.

DANIEL W. KNOWLTON,

*Chief Counsel,*

DANIEL H. KUNKEL,

*Attorney,*

*For Interstate Commerce Commission,*

HARRY E. YOCKEY,

KIRKWOOD YOCKEY,

*For Willett Company of Indiana, Inc.*

H. Z. MAXWELL

*For A. M. Donnan,*

H. Z. MAXWELL

*For Oscar Lindstrand,*

H. Z. MAXWELL

*For H. Z. Maxwell,*

H. Z. MAXWELL,

*For John Dickinson,*

*For The Pennsylvania Railroad Company.*

104

## In United States District Court

*Order allowing appeal*

Aug. 22, 1944

In the above-entitled cause, defendants having made and filed their petition praying for an appeal to the Supreme Court of the United States from the final decree of this Court entered June 30, 1944, and having also made and filed an assignment of errors and a statement of jurisdiction, and having in all respects conformed to the statutes and rules of Court in such cases made and provided;

It is ordered and decreed, that the appeal be, and the same is hereby, allowed as prayed for.

And it is further ordered, that petitioners other than the Interstate Commerce Commission, give bond in the sum of \$250.00 as a cost bond.

And it is further ordered, that the Clerk of Court transmit to the United States Supreme Court, as part of the record herein, the original papers, in lieu of copies thereof, as may be designated by appellants' and appellees' praecipe for transcript of the record filed pursuant to Rule 10 of the Revised Rules of the Supreme Court of the United States.

116 [Citation in usual form, filed Aug. 22, 1944; omitted in printing.]

122

## In United States District Court

[Title omitted.]

*Notice of appeal*

Filed Aug. 23, 1944

~~TO THE ATTORNEY GENERAL FOR THE STATE OF INDIANA:~~

You are hereby notified that the District Court of the United States for the Southern District of Indiana, Indianapolis Division, on August 22nd, 1944, filed and entered an order allowing an appeal by the United States and the Interstate Commerce Commission to the Supreme Court of the United States from a decree filed and entered on June 30, 1944, in the above-entitled cause, and that the citation signed by such Court on August 22nd, 1944, in connection with the order allowing such appeal, is made returnable within 40 days from the date of the signing of such citation.

Attached hereto are copies of each of the following documents: the citation referred to above, the petition for and the order allowing said appeal, defendants' jurisdictional statement and assignment of errors pursuant to Rule 12 of the revised Rules of the

Supreme Court of the United States, and the statement required to be served upon appellees by said Rule 12.

123 This notice is given to you pursuant to the provisions of U. S. Code, Title 28, Sec. 47a, enacted March 3, 1911, c. 231, Sec. 210.

Dated August 23, 1944.

DANIEL W. KNOWLTON,  
*Chief Counsel,*

DANIEL H. KUNKEL,  
*Attorney,*

*For Interstate Commerce Commission.*

HARRY E. YOCKEY,

KIRKWOOD YOCKEY.

*For Willett Company of Indiana, Inc.*

H. Z. MAXWELL,

*for A. M. Donnan,*

H. Z. MAXWELL,

*for Oscar Lindstrand,*

H. Z. MAXWELL,

*for H. Z. Maxwell,*

H. Z. MAXWELL,

*for John Dickinson,*

*For The Pennsylvania Railroad Company.*

124

AFFIDAVIT OF SERVICE

STATE OF INDIANA,

*County of Marion, ss:*

Before me, a Notary Public in and for said County and State, personally appeared Harry E. Yockey, who, being first-duly sworn, upon his oath says that he served the foregoing and attached Notice of Appeal, together with the following attachments: Citation on Appeal, Petition for Appeal, Order Allowing Appeal: Defendant-Appellants' Jurisdictional Statement, Assignment of Errors, and Statement by Defendant-Appellants Directing Attention to Paragraph 3 of Rule 12 of the Revised Rules of the Supreme Court of the United States, by mailing a copy of the same to the Attorney General for the State of Indiana at State House, Indianapolis, Indiana.

HARRY E. YOCKEY,

Harry E. Yockey,

*1250 Consolidated Bldg.,*

*Indianapolis 4, Indiana.*

Subscribed and sworn to this 23rd day of August 1944.

LOU A. ROBERTSON,

*Notary Public, Marion County.*

My commission expires Nov. 23, 1944.



- 126 [Citation in usual form showing service on K. F. Clardy,  
et al., filed Aug. 23, 1944, omitted in printing.]
- 129 [Bond on Appeal for \$250.00 approved and filed Aug. 23,  
1944, omitted in printing.]
- 131 [Order approving bond omitted in printing.]

133 Supreme Court of the United States

*Præcipe for transcript of Record*

Filed August 23, 1944

*To the Clerk of the above-named Court:*

You will please prepare a transcript of the record in the herein entitled cause to be transmitted to the Clerk of the Supreme Court of the United States and include in said transcript the following:

1. Complaint and exhibits attached thereto.
2. Order entered February 23, 1944, designating and assigning the Honorable Sherman Minton, United States Circuit Judge for the Seventh District, the Honorable Robert C. Baltzell, District Judge, and Honorable Luther M. Swygert, United States District Judge, to act as Judges in the above entitled cause.
3. Intervention and answer of Interstate Commerce Commission.
4. Answer of United States of America.
5. Intervention and answer of The Willett Company of Indiana, Inc.
6. Intervention and answer of The Pennsylvania Railroad Company.
7. Record before Interstate Commerce Commission in No. MC-2815 (Sub-No. 6) as introduced in evidence as Exhibit A at the trial of the above-entitled cause.
8. Suggested findings of fact and conclusions of law submitted by defendants, United States of America, and Interstate Commerce Commission.
9. Special findings of fact filed June 30, 1944.
- 134 10. Conclusions of law filed June 30, 1944.
11. Judgment entered June 30, 1944.
12. Petition for appeal.
13. Assignment of errors.
14. Order allowing appeal.
15. Citation on appeal, and proof of service.
16. Statement directing attention to paragraph 3 of Rule 12 of the Revised Rules of the Supreme Court and proof of service.
17. This præcipe, and proof of service.
18. Jurisdictional Statement.

19. Notice of Appeal to Attorney General of the State of Indiana, and proof of service.

20. Suggested findings of fact and conclusions of law submitted by intervening defendant, The Willett Company of Indiana, Inc.

DANIEL W. KNOWLTON,

*Chief Counsel,*

DANIEL H. KUNKEL,

*Attorney,*

*For Interstate Commerce Commission.*

HARRY E. YOCKEY,

KIRKWOOD YOCKEY,

*For Willett Company of Indiana, Inc.*

H. Z. MAXWELL,

*For A. M. Donnan,*

H. Z. MAXWELL,

*For Oscar Lindstrand,*

H. Z. MAXWELL,

*For H. Z. Maxwell,*

H. Z. MAXWELL,

*For John Dickinson,*

*For the Pennsylvania Railroad Company.*

135

AFFIDAVIT OF SERVICE

STATE OF INDIANA,

*County of Marion, ss:*

Before me, a Notary Public in and for said County and State, personally appeared Harry E. Yockey, who, being first duly sworn, upon his oath says that he served the foregoing and attached Praecipe for Transcript of Record, by mailing a copy of the same to Honorable James A. Emmert, Attorney General of the State of Indiana, State House, Indianapolis, Ind., and to counsel for the several appellees as follows: K. F. Clardy, 712 Olds Tower, Lansing, Mich.; Howell Ellis, 520 Illinois Building, Indianapolis, Ind.; Fred I. King, 1008 Odd Fellows Building, Indianapolis, Ind.; Robert E. Des Roches, 712 Olds Tower, Lansing, Mich.; John S. Powell, 520 Illinois Bldg., Indianapolis, Ind.; Claude H. Anderson, 601 Illinois Bldg., Indianapolis, Ind.

HARRY E. YOCKEY,

Harry E. Yockey,

*1250 Consolidated Building,*

*Indianapolis 4, Indiana.*

Subscribed and sworn to this 23rd day of August 1944.

[SEAL]

LOU A. ROBERTSON,

*Notary Public, Marion County.*

My commission expires Nov. 23, 1944.

137

## In United States District Court

[Title omitted.]

[File endorsement omitted.]

*Petition for appeal*

Filed Aug. 25, 1944

The United States of America, defendant in the above-entitled cause, feeling itself aggrieved by the final decree of the United States District Court for the Southern District of Indiana, Indianapolis Division, entered in said court on June 30, 1944, prays an appeal from said decree to the Supreme Court of the United States.

The particulars wherein said defendant considers the decree erroneous are set forth in the assignment of errors accompanying this petition, to which reference is hereby made.

Said defendant prays that a transcript of the record, proceedings, and papers on which said decree was made and entered, duly authenticated, be transmitted forthwith to the Supreme Court of the United States.

Dated August 25, 1944.

CHARLES FAHY,  
*Solicitor General.*

WENDELL BERGE,  
*Assistant Attorney General.*

ROBERT L. PIERCE,

EDWARD DUMBAULD,

*Special Assistants to the Attorney General.*

B. HOWARD CAUGHRAN,  
*United States Attorney.*

138

## In United States District Court

[Title omitted.]

[File endorsement omitted.]

*Assignment of errors*

Filed August 25, 1944

Comes now the United States of America, defendant in the above-entitled cause, and files the following assignment of errors upon which it will rely in the prosecution of the appeal to the Supreme Court of the United States herewith petitioned for in

said cause from the decree of the District Court of the United States for the Southern District of Indiana, Indianapolis Division, entered June 30, 1944:

1. The Court erred in entering the final decree of June 30, 1944.
  2. The Court erred in making its Special Finding of Fact numbered III.
  3. The Court erred in making its conclusions of law numbered II and III.
  4. The Court erred in substituting its judgment for that of the Commission upon purely administrative matters.
  5. The Court erred in concluding that the order of the Commission was illegal and void and should be permanently enjoined.
  - 140 6. The Court erred in failing to find that the complaint was without equity.
  7. The Court erred in failing to dismiss the complaint.
- Dated August 24, 1944.

CHARLES FARY,  
*Solicitor General.*

WENDELL BERGE,  
*Assistant Attorney General.*

ROBERT L. PIERCE,  
EDWARD DUMBAULD,

*Special Assistants to the Attorney General.*

B. HOWARD CAUGHRAN,  
*United States Attorney.*

141

In United States District Court

*Order allowing appeal*

Aug. 25, 1944

In the above-entitled cause, defendant having made and filed its petition praying for an appeal to the Supreme Court of the United States from the final decree of this Court entered June 30, 1944, and having also made and filed an assignment of errors and a statement of jurisdiction, and having in all respects conformed to the statutes and rules of Court in such cases made and provided:

It is ordered and decreed, that the appeal be, and the same is hereby, allowed as prayed for.

And it is further ordered, that the Clerk of Court transmit to the United States Supreme Court, as part of the record herein, the original papers, in lieu of copies thereof, as may be designated by appellants and appellees' praecipe for transcript of the record filed pursuant to Rule 10 of the Revised Rules of the Supreme Court of the United States.

143 [Citation in usual form, filed Aug. 25, 1944, omitted in printing.]

145 In United States District Court

[Title omitted.]

[File endorsement omitted.]

*Notice of Appeal*

Filed Aug. 25, 1944

To the ATTORNEY GENERAL FOR THE STATE OF INDIANA:

You are hereby notified that the District Court of the United States for the Southern District of Indiana, Indianapolis Division, on August 25, 1944, filed and entered an order allowing an appeal by the United States and the Interstate Commerce Commission to the Supreme Court of the United States from a decree filed and entered on June 30, 1944, in the above-entitled cause, and that the citation signed by such Court on August 25, 1944, in connection with the order allowing such appeal, is made returnable within 40 days from the date of the signing of such citation.

Attached hereto are copies of each of the following documents: the citation referred to above, the petition for and the order allowing said appeal, defendants' jurisdictional statement pursuant to Rule 12 of the revised Rules of the Supreme Court of the United States, and the statement required to be served upon appellees by said Rule 12.

This notice is given to you pursuant to the provisions of  
146 U. S. Code, Title 28 Sec. 47a, enacted March 3, 1911, c. 231, Sec. 210.

CHARLES FAHY,

*Solicitor General.*

WENDELL BERGE,

*Assistant Attorney General.*

ROBERT L. PIERCE,

EDWARD DUMBAULD,

*Special Assistants to the Attorney General.*

B. HOWARD CAUGHRAN,

*United States Attorney.*



[Title omitted.]

[File endorsement omitted.]

*Praecipe For Transcript of Record*

(Filed Aug. 28, 1944)

TO THE CLERK OF THE ABOVE-NAMED COURT:

You will please prepare a transcript of the record in the above entitled cause to be transmitted to the Clerk of the Supreme Court of the United States and include in said transcript the following:

1. Complaint and exhibits attached thereto.
2. Order entered February 23, 1944, designating and assigning the Honorable Sherman Minton, United States Circuit Judge for the Seventh Circuit, the Honorable Robert C. Baltzell, District Judge, and Honorable Luther M. Swygert, United States District Judge, to act as Judges in the above entitled cause.
3. Intervention and answer of Interstate Commerce Commission.
4. Answer of United States of America.
5. Intervention and answer of The Willett Company of Indiana, Inc.
6. Intervention and answer of The Pennsylvania Railroad Company.
7. Record before Interstate Commerce Commission in No. MC-2815 (Sub-No. 6) as introduced in evidence as Exhibit A at the trial of the above-entitled cause.
8. Suggested findings of fact and conclusions of law submitted by defendants, United States of America, and Interstate Commerce Commission.
9. Special findings of fact filed June 30, 1944.
10. Conclusions of law filed June 30, 1944.
11. Judgment entered June 30, 1944.
12. Petition for appeal.
13. Assignment of errors.
- 165 14. Order allowing appeal.
15. Citation on appeal, and proof of service.
16. Statement directing attention to paragraph 3 of Rule 12 of the Revised Rules of the Supreme Court and proof of service.
17. This praecipe, and proof of service.
18. Jurisdictional Statement.
19. Notice of Appeal to Attorney General of the State of Indiana, and proof of service.

20. Suggested findings of fact and conclusions of law submitted by intervening defendant, The Willett Company of Indiana, Inc.

21. Suggested findings of fact and conclusions of law submitted by United States and Interstate Commerce Commission.

(S) HOWARD CAUGHNAN,  
B. Howard Caughnan,  
United States Attorney.

166

## AFFIDAVIT OF SERVICE

STATE OF INDIANA,

*County of Marion, ss:*

Before me, a Notary Public in and for said County and State, personally appeared B. Howard Caughnan, who, being first duly sworn, upon his oath says that he is United States Attorney for the Southern District of Indiana and that he served the foregoing and attached praecipe for transcript of record by mailing a copy of the same to Honorable James A. Emmert, Attorney General of the State of Indiana, Indianapolis, Indiana, and to counsel for the several appellees as follows: K. F. Clardy, 712 Olds Tower, Lansing, Michigan; Howell Ellis, 520 Illinois Building, Indianapolis, Indiana; Fred I. King, 1008 Odd Fellows Building, Indianapolis, Indiana; Robert E. Des Roches, 712 Olds Tower, Lansing, Michigan; John S. Powell, 520 Illinois Building, Indianapolis, Indiana.

(S) B. HOWARD CAUGHNAN.

Subscribed and sworn to before me this 28 day of August 1944.

[SEAL]

(S) MILDRED G. SHERER,  
Notary Public.

My commission expires 7/7/48.

168

In United States District Court

[Title omitted.]

[File endorsement omitted.]

*Praecipe for additional parts of record*

Filed Aug. 30, 1944

To the CLERK OF THE ABOVE-NAMED COURT:

In preparing the record on appeal in the above entitled cause for transmission to the Supreme Court of the United States, you are hereby requested, by each of the undersigned, to include the following:

1. Motion to intervene of Norwalk Truck Line Company and Order granting leave to intervene as a party plaintiff.

2. Petition for Leave to Intervene of Regular Common Carrier Conference of the American Trucking Associations, Inc.; Motor Carriers Central Freight Association, a corporation; Consolidated Freight Company, a corporation; and Creston Transfer Company, a corporation; and order granting leave to intervene as parties plaintiff.

3. Appearance of Claude H. Anderson, Attorney for O. I. M. Transit Corporation and Days Transfer Company, Inc.

HOWELL ELLIS,

Howell Ellis,

*For K. F. Clardy.*

HOWELL ELLIS,

Howell Ellis, and

JNO. S. POWELL,

Jno. S. Powell,

*Attorneys for Harry A. Parker,  
d/b/a Parker Motor Freight.*

HOWELL ELLIS,

Howell Ellis,

*For K. F. Clardy.*

HOWELL ELLIS,

Howell Ellis,

*For Robert E. Des Roches.*

HOWELL ELLIS,

Howell Ellis,

*Attorneys for Regular Common Carrier Conference of  
the American Trucking Associations, Inc.; Motor  
Carriers Central Freight Association, a corporation;  
Consolidated Freight Company, a corporation; Creston  
Transfer Company, a corporation.*

FRED I. KING,

Fred I. King,

*For Norwalk Truck Line Company.*

CLAUDE H. ANDERSON,

Claude H. Anderson,

*For O. I. M. Transit Corporation and  
Days Transfer Company, Inc.*

Dated this 30th day of August 1944.

170.

## AFFIDAVIT OF SERVICE

•STATE OF INDIANA,

*County of Marion, ss:*

Before me, a Notary Public in and for said County and State, personally appeared Fred I. King, who, being first duly sworn, upon his oath says that he served the foregoing and attached Praecept for Additional Parts of Record, by mailing a copy thereof to Honorable James A. Emmert, Attorney General of the State of Indiana, State House, Indianapolis, Indiana, and to counsel for the several appellants as follows: Daniel W. Knowlton, Interstate Commerce Commission, Washington, D. C.; Daniel W. Kunkel, Interstate Commerce Commission, Washington, D. C.; B. Howard Coughran, United States District Attorney, U. S. Court House and Postoffice Bldg., Indianapolis, Indiana; Edward Dumbauld, Office of Attorney General of the United States, Washington, D. C.; Edward M. Reidy, Interstate Commerce Commission, Washington, D. C.; Harry E. Yockey and Kirkwood Yockey, 1250-1255 Consolidated Bldg., Indianapolis 4, Indiana; A. M. Donnan, 925 Pennsylvania Station, Pittsburgh, Pennsylvania; Oscar Lindstrand, 652 Union Station Bldg., Chicago, Illinois.

FRED I. KING,

Fred I. King.

1008 Odd Fellow Building,  
Indianapolis 4, Indiana.

Subscribed and sworn to this 30th day of August 1944.

[SEAL]

WALTER F. GURLEY,  
Notary Public.

My Commission expires Jan. 13, 1947.

171

[Clerk's certificate to foregoing transcript omitted  
in printing.]

*Plaintiff's Exhibit No. 1*

171-A APPLICATION FOR CHANGE OR EXTENSION OF OPERATIONS

(Before answering, read General Instructions on page 3)

## BEFORE THE INTERSTATE COMMERCE COMMISSION

Application of the Willett Company of Indiana, Inc., a corporation of the State of Indiana, 323 West Polk Street, Chicago, Illinois.

Applicant hereby applies for the appropriate authority to (check applicable status):

- ☒ extended on operation
- ☐ operate over an alternate route
- ☐ change a route or operation
- ☐ engage in dual operations

as a

- ☒ common carrier
- ☐ contract carrier

of

- ☐ passengers,
- ☒ property,

by motor vehicle in interstate or foreign commerce, transporting the following commodities (a property carrier of general commodities should name exceptions, if any; and a passenger carrier should name newspapers, express, mail, and/or baggage of passengers, if such property is to be transported, and should state whether baggage of passengers is to be transported in the same vehicle with passengers or in separate vehicles) commodities generally over ☒ regular or ☐ irregular routes (a common carrier of passengers should check the irregular route square only if the application involves special and charter operations which are not authorized under section 208 (c), Interstate Commerce Act, as incidental to operations over regular routes) from Fort Wayne, Indiana to Grand Rapids, Michigan, as follows: Grand Rapids, Michigan to Cadillac, Michigan; Cadillac, Michigan to Mackinaw City, Michigan. Cadillac, Michigan to Traverse City, Michigan. Cadillac, Michigan to Falmouth, Michigan. Grand Rapids, Michigan to Muskegon, Michigan:

See Exhibit "E".

On return movements applicant proposes: ☒ to engage in the same operation; ☐ to furnish NO transportation for compensation; ☐ to transport empty containers used in the operation described above; ☐ to transport rejected shipments; and/or ☐ to transport the following commodities: See Exhibit "E".

Intermediate and off-route points to be served which applicant is not now serving: See Exhibit "E".

Applicant is operating at present between ——— and ——— as follows: See Exhibit "F".

Applicant ☐ has or ☒ has not received authority from the State Board(s) to engage in intrastate commerce over the proposed route, including service to the following intermediate and off-route points: Applications for authority to engage in intrastate commerce over the proposed route will be the subject of applications to appropriate State Boards.



A map of the proposed operation, also outlining any alternate route and any route to be changed or extended, is attached hereto and made a part hereof. Any change, interruption, or discontinuance of operations by applicant is explained by Exhibit "A," attached hereto and made a part hereof.

The proposed operation will be: ☒ year-round or ☐ seasonal between \_\_\_\_\_ and \_\_\_\_\_ approximately \_\_\_\_\_ times each \_\_\_\_\_; ☒ on schedule, ☐ not on schedule, ☐ on call.

Applicant proposes to use approximately seven tractor-trailer units motor vehicles in the above-described service.

Previous application(s) under part II, Interstate Commerce Act, is (are) filed under Docket No(s). MC See Exhibit "G".

171-B. In support of this application, applicant submits the following exhibits, attached hereto and made a part hereof:

EXHIBIT "B" showing that applicant is fit, willing, and able properly to perform the service proposed and to conform to the applicable provisions of the Interstate Commerce Act, and the requirements, rules, and regulations of the Commission thereunder;

EXHIBIT "C" showing that the proposed common carrier operation is or will be required by the present or future public convenience and necessity, or that the proposed contract carrier operation will be consistent with the public interest and the national transportation policy declared in the said act.

Applicant will furnish such additional information as the Commission may request.

If the Commission assigns a formal hearing upon this application, applicant requests that it be held at Indianapolis, Ind.

Applicant will introduce approximately 25 witnesses at the hearing, and will require approximately 2 days to present evidence. The number of days and witnesses, is the estimate placed by the applicant based upon its experience in prior hearings.

Applicant understands that the filing of this application does not in itself constitute authority to operate.

#### OATH

STATE OF PENNSYLVANIA,

*County of Philadelphia, ss:*

Geo. G. Young makes oath and says that he is the President of the Willett Company of Indiana, Inc.; that he is authorized on the part of said applicant to verify and file with the Interstate Commerce Commission this application and exhibits attached thereto; that he has carefully examined all of the statements contained in such application and the exhibits attached thereto and

made a part thereof; that he has knowledge of the matters set forth therein and that all such statements made and matters set forth therein are true and correct to the best of his knowledge, information, and belief; affiant further says that the applicant makes this application intending in good faith to present evidence which the applicant believes will support the application as to each of the States within which authority to operate is sought herein.

GEO. G. YOUNG.

Subscribed and sworn to before me, a Notary Public in and for the State and County above named, this 30th day of August 1941.

[SEAL]

J. P. BREUNINGER.

My commission expires January 27, 1945.

#### CERTIFICATE OF SERVICE

A copy of this application was delivered, in person or by registered or receipted mail, to each of the following State Boards or officials: Public Service Commission of Indiana, Indianapolis, Indiana; Public Service Commission, Lansing, Michigan.

A notice of the filing of this application, Form BMC 15 (Revised), was delivered, in person or by registered or receipted mail, to the following competitors by motor vehicle, rail, or water (applicants should carefully follow the Commission's order requiring that the applicant notify each motor carrier, railroad, or water carrier, known to the applicant, with whose service the operations described in the application are or will be directly competitive): Applicant has no knowledge of any other motor carrier operating in the territory covered by this application, with whose operations the service herein proposed would be competitive.

(Signed) By \_\_\_\_\_

MCNESS, HOLLINGER & NURICK,

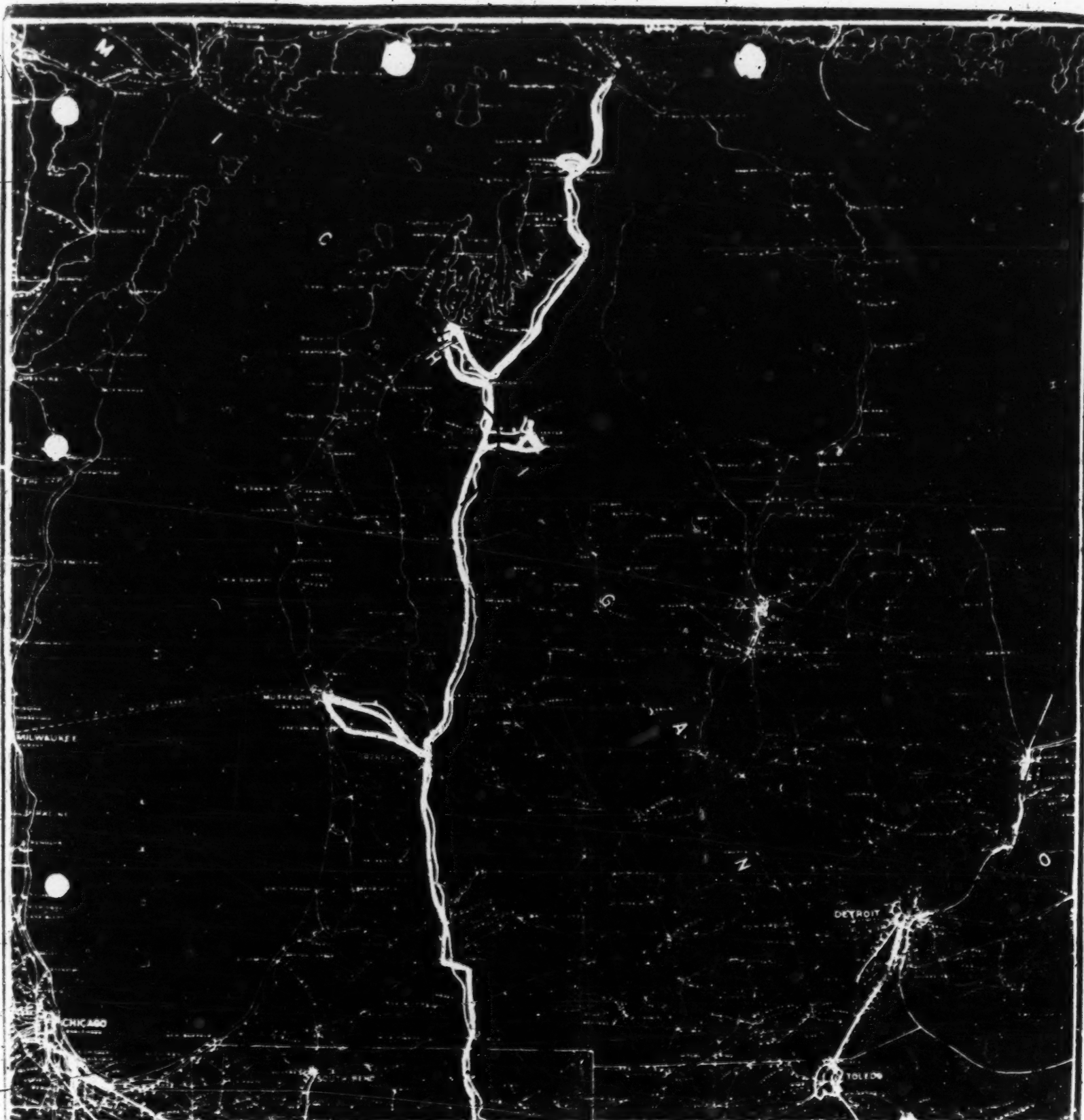
*General Counsel.*

Date Sept. 5, 1941.

NOTE.—Protests, to receive consideration, must be filed with the Commission, by delivery in person or by registered or receipted mail, within 10 days after receipt of notice of filing of the application. A copy of the protest should be served likewise upon the applicant.

MCNESS, HOLLINGER & NURICK,  
*State Street, Building, Harrisburg, Pa.,*  
*Counsel for Applicant.*

HARRY E. YOCKEY, Esq.,  
*1250 Consolidated Building, Indianapolis, Ind.*  
*Plaintiff's Exhibit No. 1*



171-D THE WILLETT COMPANY OF INDIANA, INC.

## EXHIBIT A

Not applicable, as this application does not relate to change, interruption, or discontinuance of operations.

171-E THE WILLETT COMPANY OF INDIANA, INC

(Name of Applicant)

## EXHIBIT B

(a) George G. Young, President of Applicant, has been associated with the trucking industry for about twenty-five years. During the past three years he has been President of all the trucking companies embraced in what may be called "The Pennsylvania Railroad Trucking System," involving companies whose operations are conducted in the territory covered by the entire Pennsylvania Railroad. For about seven years prior thereto, he was Vice-President of several of the larger companies in that trucking system. He is thoroughly conversant with the operations and management of Applicant and the various phases of truck transportation operations.

Joseph P. McArdle, Vice-President and Manager of Applicant, has been identified with the trucking industry for more than twenty years. He has been Vice-President and Manager of Applicant for five years and is engaged in the active management of the operations of Applicant. He is thoroughly conversant with the various phases of truck transportation operations.

B. B. Young, Secretary and Assistant Treasurer of Applicant has had contact with and experience in the field of motor truck operations for many years.

(b) It is proposed to use 7- tractor-trailer units in the operation herein applied for; and the only terminal facilities proposed to be used will be the station platforms of The Pennsylvania Railroad Company. Applicant now has garage facilities at Logansport, Indiana and Fort Wayne, Indiana, and plans to inaugurate garage facilities at additional points along the route referred to herein.

(c) Applicant has sufficient financial resources to conduct the operation, as well as sufficient reserve of units of equipment of various types to properly handle all traffic which may be offered.

Attached hereto, marked "Exhibit B-1", are Balance Sheet Statement and Profit and Loss Statement of Applicant, as of May, 31, 1941.



(Name of Applicant)

EXHIBIT B-1

## GENERAL BALANCE SHEET

May 31, 1941

## Assets:

## Current assets:

Cash, working funds and special deposits		\$20,491.41
Notes and accounts receivable		14,245.93
Interest and dividends receivable		1,031.26
Material and supplies		1,384.32
Other current assets		340.10
Total current assets		37,493.02

	Cost	Depreciation	
Tangible property	\$60,736.69	\$22,118.35	38,618.34
Intangible property	8,801.63	8,347.47	454.16
Investment securities and advances:			
Associated companies			
Others			23,000.00

Total investment securities and advances	23,000.00
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Deferred debits	4,066.08
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Total assets	\$108,631.60
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## Liabilities:

## Current liabilities:

Notes, accounts and wages payable	\$2,702.26
Taxes and interest accrued	5,892.43
Accrued insurance	3,494.28
Other current liabilities	45.00

Total current liabilities	11,933.97
---------------------------	-----------

	210.90
--	--------

## Reserves

## Capital stock:

Common capital stock	70,000.00
Unappropriated surplus	21,486.73

Total liabilities	\$108,631.60
-------------------	--------------

## PROFIT AND LOSS STATEMENT

May 31, 1941

Earned surplus at beginning of year	\$15,405.51
Credit balance transferred from income account	6,081.22
Earned surplus as of May 31, 1941	\$21,486.73



171-G

THE WILLETT COMPANY OF INDIANA, INC.

(Name of Applicant)

## EXHIBIT C

(a) Applicant is a subsidiary of the Pennsylvania Railroad Company through ownership of 100% of its capital stock by American Contract and Trust Company, which latter Company is owned 100% by the Pennsylvania Railroad Company. The said Railroad Company also owns a number of other motor truck subsidiaries.

The service herein proposed will be in substitution for service by rail in the transportation of freight moving under railroad tariffs and railroad bills of lading. Same will further co-ordinate the rail and motor truck service of the Pennsylvania Railroad Company and permit expedition and economy in the transportation service of said Railroad Company in accordance with its obligations under the Transportation Act of 1920 and in compliance with the principles laid down in the Report of the Interstate Commerce Commission in Ex Parte 129.

(b) Applicant has no knowledge of any other motor carrier operating in the territory covered by this application, with whose operations the service herein proposed would be competitive.

(c) The proposed service will, in Applicant's opinion, be highly beneficial to the shipping and receiving public. It will not in any way affect or impair any of the other operations of Applicant.

171-H

THE WILLETT COMPANY OF INDIANA, INC.

(Name of Applicant)

## EXHIBIT D

The names and addresses of the Directors and Officers of Applicant are as follows:

## DIRECTORS

- H. E. Newcomet, Union Station, Chicago, Illinois.
- J. M. Symes, Union Station, Chicago, Illinois.
- F. R. Gerard, Union Station, Chicago, Illinois.
- B. B. Young, Union Station, Chicago, Illinois.
- Jno. C. Rill, Broad Street Station Building, Philadelphia, Pa.
- Geo. J. Adams, Broad Street Station Building, Philadelphia, Pa.
- Geo. G. Young, 1000 South Broad Street, Philadelphia, Pa.

## OFFICERS

Geo. G. Young, President, 1000 South Broad Street, Philadelphia, Pa.

J. P. McArdle, Vice President and Manager, 323 West Polk Street, Chicago, Ill.

B. B. Young, Secretary and Asst. Treasurer, Union Station, Chicago, Illinois.

171-I

THE WILLETT COMPANY OF INDIANA, INC.

(Name of Applicant)

## EXHIBIT E

The routes over which it is proposed to operate between Fort Wayne, Indiana, and Mackinaw City, Michigan, are as follows:

Between Fort Wayne, Ind., and Grand Rapids, Mich.: From Fort Wayne, over Indiana Highway 3 to Kendallville, Indiana, thence over U. S. highway 6 to junction with Indiana Highway 9; thence over Indiana Highway 9 to junction with Michigan Highway 78 at the Indiana-Michigan State Line; thence over Michigan Highway No. 78 to junction with Michigan Highway 7, near Nottawa; thence over Michigan Highway 7 to Nottawa; thence over County Roads, through Mendon and Vicksburg to Junction with U. S. Highway 131 at Schoolcraft; thence over U. S. Highway 131 to Grand Rapids and return over the same route. Intermediate points to be served: Wallen, Huntertown, Laotto, Avilla, Kendallville, Rome City, Wolcottville, La Grange, and Howe, all in Indiana, and Sturgis, Nottawa, Mendon, Vicksburg, Kalamazoo, County Spur, Plainwell, Martin, Shelbyville, Wayland, and Moline, all in Michigan. No off-route points to be served. From Kendallville, Indiana, over County Road to Rome City, Indiana. No intermediate or off-route points to be served. From Nottawa, Michigan, over Michigan Highway 7 to Three Rivers; thence over U. S. Highway 131 to Schoolcraft, Michigan. No intermediate or off-route points to be served.

Between Grand Rapids, Michigan, and Cadillac, Michigan: From Grand Rapids, over U. S. Highway 131 to Cadillac, and return over the same route. Intermediate points to be served: Rockford, Cedar Springs, Sand Lake, Pierson, Howard City, Morley, Stanwood, Big Rapids, Paris, Reed City, Orino, Ashton, LeRoy, and Tustin, Michigan. No off-route points to be served. From Grand Rapids over County Roads, through Comstock Park and Belmont to junction with U. S. Highway 131, north of Grand Rapids. Intermediate points to be served: Belmont. No off-route points to be served.

171-J

THE WILLETT COMPANY OF INDIANA, INC.

(Name of Applicant)

EXHIBIT E

Between Cadillac, Michigan, and Mackinaw City, Michigan. From Cadillac over U. S. Highway 131 to Petoskey, thence over U. S. Highway 31 to Mackinaw City, and return over the same route. Intermediate points to be served: Manton; Fife Lake, South Boardman, Kalkaska, Mancelona, Alba, Elmira, Boyne Falls, Walloon Lake, Petoskey, Bay View, Kegonic, Conway, Oden, Alanson, Brutus, Pellston, Levering, and Carp Lake, Michigan. No off-route points to be served. From Kegonic over U. S. Highway 131 to Harbor Springs, thence over said Highway and County Roads to Conway. Intermediate points to be served: Harbor Springs. No off-route points to be served.

Between Cadillac, Michigan, and Traverse City, Michigan. From Cadillac over U. S. Highway 131 to Walton, thence over County Road 113 to Kingsley; thence over County Road 611 to Traverse City and return over the same route. Intermediate points to be served: Manton, Kingsley, and Mayfield, Michigan. No off-route points to be served. From Walton over Michigan Highway 113 to junction with Michigan Highway 42, thence over Michigan Highway 42 to junction with U. S. Highway 31, thence over U. S. Highway 31 to Traverse City. ☐ No intermediate or off-route points to be served.

Between Cadillac, Michigan, and Falmouth, Michigan. From Cadillac over Michigan Highway 55 to Lake City, thence over said Highway and County Roads to Falmouth, and return over the same route. Intermediate points to be served: Lake City, Michigan. No off-route points to be served. From Cadillac, over Michigan Highway 55 and County Roads, through Lucas, to Falmouth. No intermediate or off-route points to be served.

Between Grand Rapids, Michigan, and Muskegon, Michigan. From Grand Rapids, over U. S. Highway 16 to Coopersville, thence over County Roads, through Conklin, Ravenna, and Sullivan to junction with Michigan Highway 46; thence over Michigan Highway 46 to junction with U. S. Highway 31, thence over U. S. Highway 31 to Muskegon, and return over the same route. Intermediate points to be served: Ravenna and Conklin. No off-route points to be served. From Grand Rapids, over U. S. Highway 16 to Nunica, thence over Michigan Highway 126 to Muskegon. No intermediate or off-route points to be served.

171-K

THE WILLETT COMPANY OF INDIANA, INC.

(Name of Applicant)

## EXHIBIT F

Applicant is operating at present between the following points: Logansport, Ind. and Columbus, Ind.; Fort Wayne, Ind. and Plymouth, Ind.; Fort Wayne, Ind. and Butler, Ind.; Fort Wayne, Ind. and Indiana-Ohio State Line; MC 2815—"Grandfather" Clause application. Compliance Order issued by Division 5 of Commission, August 13, 1940.

Columbus, Ind. and Madison, Ind.; Effingham, Ill. and East St. Louis, Ill.; Terre Haute, Ind. and Effingham, Ill.; Indianapolis, Ind. and Louisville, Ky.; Indianapolis, Ind. and Terre Haute, Ind.; Logansport, Ind. and Union City, Ind.; MC 2815 (BMC 10). Certificate issued by Commission, February 14, 1940.

Fort Wayne, Ind. and Richmond, Ind.; Logansport, Ind. and Richmond, Ind.; Indianapolis, Ind. and Richmond, Ind.; Columbus, Ind. and Madison, Ind.; MC 2815, Sub 1. Certificate issued by Commission, February 14, 1940.

Indianapolis, Ind. and Logansport, Ind.; Indianapolis, Ind. and Vincennes, Ind.; MC 2815, Sub 2. Certificate issued by Commission, February 14, 1940.

Union City, Ind. and Bradford, Ohio; MC 2815, Sub 3. Favorable recommended Order by Joint Board 58, May 13, 1941.

Logansport, Ind. and Chicago, Ill.; Chicago, Ill. and Plymouth, Ind.; Terre Haute, Ind. and Decatur, Ill.; MC 2815, Sub 4. Favorable recommended Order by Joint Board 58, May 13, 1941.

Logansport, Ind. and Effner, Ind.; Logansport, Ind. and South Bend, Ind.; Cambridge City, Ind. and Columbus, Ind.; Terre Haute, Ind. and Frankfort, Ind.; Indianapolis, Ind. and Shelbyville, Ind.; Indianapolis, Ind. and Rushville, Ind.; MC 2815, Sub 5. Favorable recommended Order by Joint Board 58, May 13, 1941.

On the 30th day of June, 1941, the Interstate Commerce Commission issued its certificate authorizing the operation of all ten (10) routes under MC 2815 Sub Nos. 3, 4, and 5.

171-L

THE WILLETT COMPANY OF INDIANA, INC.

(Name of Applicant)

## EXHIBIT G

Applications have been filed by Applicant under Part II of the Interstate Commerce Act and docketed at MC 2815 ("Grandfather" Clause application in connection with which Compliance

Order was issued under date of August 13, 1940, by Division 5 of the Commission) and MC 2815 (BMC 10), MC 2815 Subs 1 and 2; which were approved by the Commission and certificates issued under date of February 14, 1940. The latter three authorized substituted service for The Pennsylvania Railroad Company over various designated routes.

Said certificates, however, do not affect the instant proceeding.

171-N. APPLICATION FOR EXTENSION OF OPERATIONS

BEFORE THE

INTERSTATE COMMERCE COMMISSION

APPLICATION OF THE WILLETT COMPANY OF INDIANA, INC.

No. MC 2815 Sub 6

Amendment

I

Applicant is a corporation duly organized and existing under and by virtue of the laws of the State of Indiana with its principal office and place of business at *1250 Consolidated Building, Indianapolis, Indiana*, and its operating office at 323 West Polk Street, Chicago, Illinois.

II

Applicant heretofore filed its extension application herein with the Interstate Commerce Commission on the 8th day of September 1941, wherein it sought authority to transport commodities generally by motor vehicles over regular routes as a common carrier of property in interstate and foreign commerce over the following routes: From Fort Wayne, Indiana, to Grand Rapids, Michigan; from Grand Rapids, Michigan, to Cadillac, Michigan; from Cadillac, Michigan, to Mackinaw City, Michigan; from Cadillac, Michigan to Traverse City, Michigan; from Cadillac, Michigan, to Falmouth, Michigan; from Grand Rapids, Michigan, to Muskegon, Michigan.

III

Applicant desires to amend said application by adding thereto and including therein an additional route as follows:

From Lake City, Michigan, to Manton, Michigan, over the following route: From Lake City, Michigan, over Michigan Highway 66 to its junction with Michigan Highway 42; thence over Mich-



igan Highway 42 to Manton, Michigan and return over the same route; serving Lake City, Michigan and Manton, Michigan, but no intermediate points.

171-O

IV

Applicant hereby amends its said application MC 2815 Sub No. 6 in the following particulars:

1. By adding to the routes listed on page 1 of said application the following route:

From Lake City, Michigan, to Manton, Michigan.

2. By adding to the route description in Exhibit "E" contained in said application the following:

In addition to the routes set forth in said application the applicant desires to operate over an additional route, as follows:

From Lake City, Michigan, to Manton, Michigan, as follows: From Lake City, Michigan, over Michigan Highway 66 to its junction with Michigan Highway 42; thence over Michigan Highway 42 to Manton, Michigan, and return over the same route; Intermediate points to be served: None. Lake City and Manton to be served, no off-route points to be served; subject to the approval of the Interstate Commerce Commission.

V

Wherefore, applicant respectfully prays that the foregoing amendments be allowed and that said application be considered amended in said particulars.

Respectfully submitted.

THE WILLETT COMPANY OF INDIANA, INC.

By JOS. McARDLE, Vice President.

Dated this 10 day of January 1942.

171-P

OATH

STATE OF ILLINOIS.

County of Cook, ss:

Joseph P. McArdle makes oath and says that he is the Vice-President of The Willett Company of Indiana, Inc.; that he is authorized on the part of said applicant to verify and file with the Interstate Commerce Commission this amendment to said application and exhibits attached thereto; that he has carefully examined all of the statements contained in such application and the exhibits attached thereto and made a part thereof; that he has knowledge of the matters set forth therein and that all such statements made and matters set forth therein are true and correct to the best of his knowledge, information, and belief; affiant further says that the

applicant makes this amendment to said application intending in good faith to present evidence which the applicant believes will support the application as to each of the States within which authority to operate is sought herein.

JOSEPH P. McARDLE

Joseph P. McArdle.

Subscribed and sworn to before me, a Notary Public in and for the State and County above named, this 10 day of January 1942.

[SEAL]

*Notary Public.*

My commission expires October 11, 1942.

#### CERTIFICATE OF SERVICE

A copy of this amendment to said application was delivered, in person or by registered or receipted mail, to each of the following State Boards or officials: Public Service Commission of Indiana, Indianapolis, Indiana, Public Service Commission, Lansing, Michigan.

A notice of the filing of this amendment to said application, Form BMC 15 (Revised), was delivered, in person or by registered or receipted mail, to the following competitors by motor vehicle, rail or water (applicants should carefully follow the Commission's order requiring that the applicant notify each motor carrier, railroad, or water carrier, known to the applicant, with whose service the operations described in this application are or will be directly competitive): Holland Motor Express, Inc., 1 West 5th Street, Holland, Michigan; Tri-State Motor Express, Benton Harbor, Michigan; Interstate Motor Freight System, Grand Rapids, Michigan; Associated Freight Lines, Grand Rapids, Michigan; Wolverine Express, Inc., Muskegon, Michigan; Parker Motor Freight, Petoskey, Michigan; Dallas L. Carling, 319 Stransing St., Grand Rapids, Michigan; McVickers Bros. Motor Freight Lines, Scottsville, Michigan; Rooks Transfer Lines, Holland, Michigan; Midway Transit Company, Benton Harbor, Michigan.

(Signed) HARRY E. YOEKEY,  
*Counsel for Applicant.*

Dated January 12, 1944.

McNEES, HOLLINGER, & NURICK,

*State St. Bldg.*

*Harrisburg, Pennsylvania*

HARRY E. YOEKEY,

*1250 Consolidated Bldg.,*

*Indianapolis, Indiana.*

*Counsel for Applicant.*

1

Before the Interstate Commerce Commission

Docket No. MC 2815 (SuL No. 6) (Form BMC 74)

IN THE MATTER OF THE APPLICATION, AS AMENDED, OF THE WILLETT COMPANY OF INDIANA, INC., OF 323 WEST POLK STREET, CHICAGO, ILLINOIS, FILED SEPTEMBER 8, 1941, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, FORM BMC 74, AUTHORIZING EXTENSION OF OPERATIONS AS A COMMON CARRIER BY MOTOR VEHICLE IN THE TRANSPORTATION OF GENERAL COMMODITIES, IN INTERSTATE OR FOREIGN COMMERCE, IN THE STATES OF INDIANA AND MICHIGAN, OVER SPECIFIED REGULAR ROUTES

STATE HOUSE,

*Indianapolis, Indiana, February 10, 1942.*

Met, pursuant to notice at 9:30 o'clock a. m.

Before Joint Board No. 23, represented by Oliver H. Eggers, Indiana; Richard H. Barkell, Michigan.

Present: REECE HARRISON, Examiner.

Appearances: Harry E. Yockey, and Kirkwood Yockey, 1250 Consolidated Building, Indianapolis, Indiana; and Earl W. Munshaw, 1024 Michigan Trust Building, Grand Rapids, Michigan, appearing for applicant.

Oscar Lindstrand, 652 Union Station Building, Chicago, Illinois, appearing for The Pennsylvania Railroad Company, intervenor in support of application.

Claude H. Anderson, and Warren G. Moberly, 601 Illinois Building, Indianapolis, Indiana, appearing for Wolverine Express, Inc.; Dallas L. Darling; Parker Motor Freight; McVicker Bros. Motor Freight Lines; Days Transfer, Inc.; and O. I. M. Transit Corporation.

K. F. Clardy, 712 Olds Tower, Lansing, Michigan, appearing for Interstate Motor Freight System, Inc.

Robert Des Roches, 2379 National Bank Building, Detroit, Michigan, appearing for Associated Truck Lines, and Holland Motor Express.

Fred I. King, 1008-9 Odd Fellow Building, Indianapolis, Indiana, appearing for Norwalk Truck Line Company, and Norwalk Truck Line Company of Indiana, Inc.

George O. Cowan, 315 Security Trust Building, Indianapolis, Indiana, appearing for Commercial Motor Freight, Inc. of Indiana.

W. J. Guenther, 520 Illinois Building, Indianapolis, Indiana, appearing for Keeshin Motor Express Co., Inc.

4

## PROCEEDINGS

Mr. EGGERS. Come to order, please, gentlemen. The Interstate Commerce Commission has set for hearing at this time and place, cause No. MC 2815, Sub No. 6; in the matter of the application, as amended, of the The Willett Company of Indiana, Inc., of 323 West Polk Street, Chicago, Illinois, for a certificate of public convenience and necessity, authorizing extension of operations as a common carrier by motor vehicle in the transportation of general commodities, in interstate or foreign commerce, in the states of Indiana and Michigan, over regular routes as set out in the notice of hearing. This case has been assigned by the Commission for hearing to Joint Board No. 23, composed of the states of Michigan and Indiana. The Michigan member of the Joint Board, Mr. Richard H. Barkell, is present; and also the Indiana member, Oliver H. Eggers. Also sitting with the Joint Board is Examiner Reece Harrison, of the Interstate Commerce Commission, Washington, D. C.

We will take the appearances. Who appears for applicant?

Mr. KIRKWOOD YOCKEY. Harry E. Yockey and Kirkwood Yockey, 1250 Consolidated Building, Indianapolis, Indiana; and Earl W. Munshaw, 1024 Michigan Trust Building, Grand Rapids, Michigan. We are all attorneys, and have been admitted to practice before the Interstate Commerce Commission; and we are all present in the hearing room at this time.

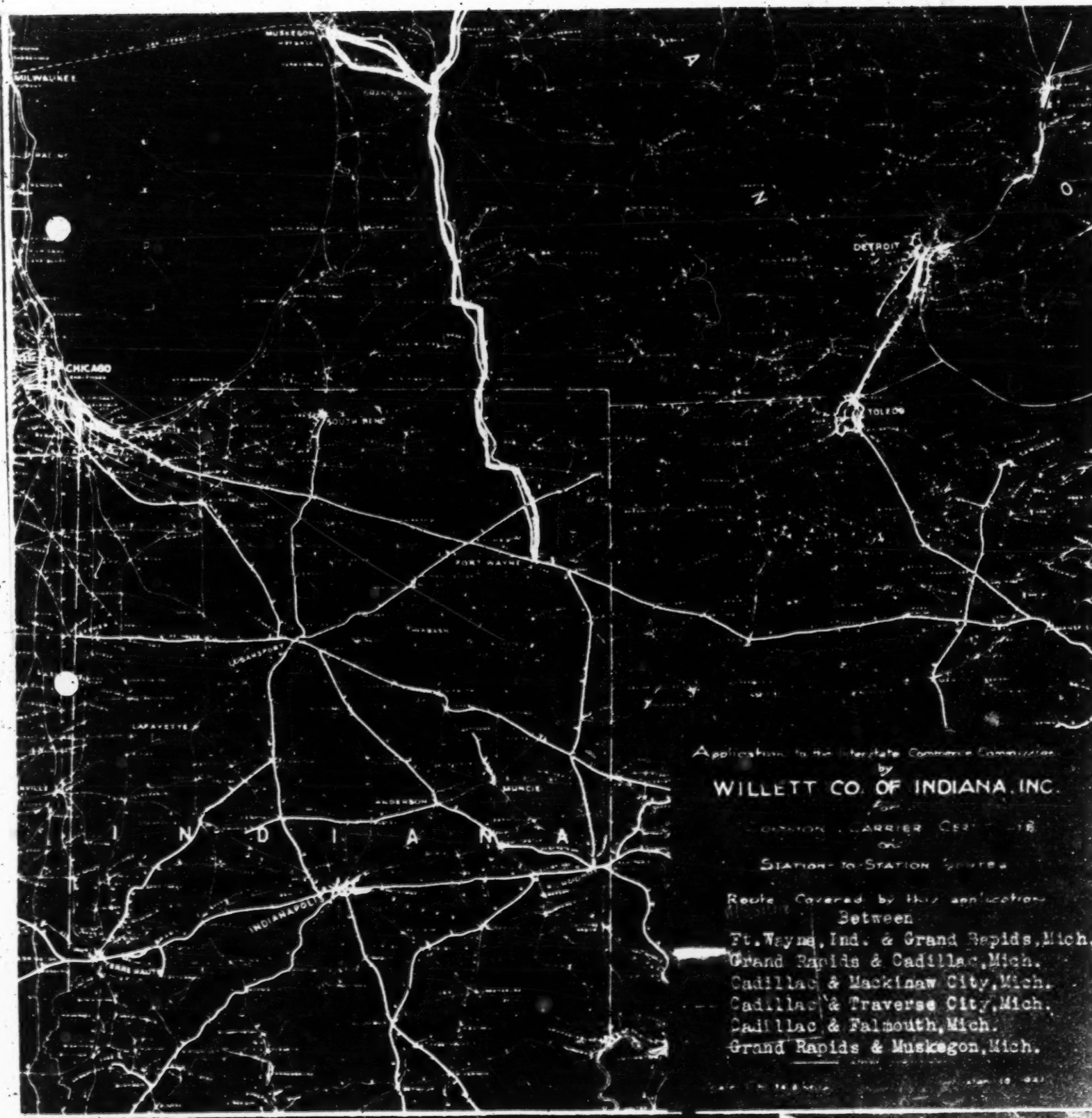
5 Mr. EGGERS. Who appears for protestants?

Mr. ANDERSON. Claude H. Anderson and Warren C. Moberly, 601 Illinois Building, Indianapolis, Indiana, attorneys and registered practitioners before the Interstate Commerce Commission, appearing for Wolverine Express, Inc., of Muskegon, Michigan, Parker Motor Freight, of Petoskey, Michigan, and others, as indicated on the written appearance blank which has been handed to the Reporter.

Mr. COWAN. George O. Cowan, 315 Security Trust Building, Indianapolis, Indiana, representing Commercial Motor Freight, Inc. of Indiana. I am an attorney at law, and have been duly admitted to practice before the Interstate Commerce Commission.

Mr. DES ROCHEs. Robert R. Des Roches, 2379 National Bank Building, Detroit, Michigan, attorney at law and licensed to practice before the Interstate Commerce Commission, appearing for Associated Truck Lines, and Holland Motor Express.

Mr. CLARDY. K. F. Clardy, 712 Olds Tower, Lansing, Michigan, appearing for Interstate Motor Freight System. I am an attorney.



Application to the Interstate Commerce Commission

by  
**WILLETT CO. OF INDIANA, INC.**

For  
CARRIER CERTIFICATE

on  
STATION-TO-STATION SERVICE

Route Covered by this application  
Between

Ft. Wayne, Ind. & Grand Rapids, Mich.  
Grand Rapids & Cadillac, Mich.  
Cadillac & Mackinaw City, Mich.  
Cadillac & Traverse City, Mich.  
Cadillac & Falmouth, Mich.  
Grand Rapids & Muskegon, Mich.



ney, and a registered practitioner before the Interstate Commerce Commission.

Mr. KING. Fred I. King, 1008-9 Odd Fellow Building, Indianapolis, Indiana, appearing for Norwalk Truck Line Company of Norwalk, Ohio, and Norwalk Truck Line Company of Indiana, Inc., of Fort Wayne, Indiana. I am an attorney at law, and have been duly admitted to practice before the Interstate Commerce Commission.

Mr. GUENTHER. Let the record show the appearance of W. J. Guenther, 520 Illinois Building, Indianapolis, Indiana, for protestant Keeshin Motor Express Co., Inc. I am an attorney at law, and have been admitted to practice before the Interstate Commerce Commission.

Mr. EGGERS. Are there any other appearances for protestants? (No response.) Are there any appearances for intervenors?

Mr. LINDSTRAND. Yes, your Honor; I wish to enter the appearance of Oscar Lindstrand, 652 Union Station Building, Chicago, Illinois, appearing for Pennsylvania Railroad Company as an intervenor in support of the application of The Willett Company of Indiana, Inc.

Mr. EGGERS. Are there any further appearances for intervenors? (No response.) Let the record show no response. Is the applicant ready to proceed, Mr. Yockey?

Mr. HARRY YOCKEY. Yes.

Mr. EGGERS. You may proceed.

Mr. HARRY YOCKEY. If the Joint Board please, I think it would be advisable, perhaps, to make a short opening statement, if I may.

Mr. EGGERS. Yes.

#### *Opening statement*

Mr. HARRY YOCKEY. There has been filed an application in this particular case, an original application, to which has been assigned No. MC 2815, Sub 6, wherein the applicant, The Willett Company of Indiana, Inc., is seeking authority to operate over six different routes as named in the application, and as will be shown in the evidence. These particular six routes cover the Pennsylvania Railroad, that is to say, they parallel the Pennsylvania Railroad from Fort Wayne, Indiana up north of Mackinaw City, Michigan, including the branches and feeder lines of railroad that emanate from the main line, which are described in the application. It was found at a later date that, inadvertently, there had been a short segment of a route omitted from the original application; and there was therefore, duly filed with the Commission an amended application, about 30 or 40 days ago, wherein the application was amended by adding a short route over highways 66 and 42, I believe, from Lake City to Manton,

Michigan; and so the hearing that we have here is on the application as amended. Now, that amendment was allowed by the Commission, and notice was sent out by the Commission, taking care of the amendment. Now, as to this operation here: we believe the evidence will show that The Willett Company of Indiana, Inc., is an Indiana corporation, that has been engaged, since 1933, in station-to-station operations solely for The Pennsylvania Railroad, with the exception that in some places, like Grand Rapids, Michigan and Louisville, Kentucky, there is an additional service, where the applicant is performing a local pick-up and delivery service. However, that particular service is not involved

8 in this application. That is the sole business of the applicant, as the evidence will show. It is engaged in hauling no freight for anybody, except The Pennsylvania Railroad. These particular routes that we have set out in the application, and all of them, parallel the Pennsylvania Railroad; and the operation is a station-to-station operation. In other words, it is proposed by The Pennsylvania Railroad to turn over to the applicant herein, in the particular situation involved in this case, if the application is granted, the right to transport its less than carload freight by truck to the intermediate stations along the railroad. In some of the other cases there has been written into the certificate what is known as the "prior and subsequent movement by rail" clause, so called. When I say, in some of the other cases, I mean generally railroad cases, beginning with the Kansas City Southern case. Our evidence will show that we do not desire that particular clause inserted in this particular certificate. Since the date referred to, the Commission has been removing, or at least, not inserting that clause in some of the other certificates of carriers, including our own. We have one certificate that has already been issued, covering one of our other 25 routes, in which the Commission has inserted the so-called key-point clause. Now, we are going to request in this case, based on the evidence here, that there be inserted in this certificate, if a certificate be granted to us, certain key-points, in lieu of the so-called "prior and subsequent movement by rail" clause.

9 The evidence, in this case will show that this applicant is not in the general trucking business; it hauls for nobody, as I say, excepting The Pennsylvania Railroad; it has no bills of lading, it has no freight bills; it has no relationship whatsoever with the general public. It only desires to transport this freight for The Pennsylvania Railroad, in what is known as station-to-station operation. The freight at the present time is moving on the bills of lading and freight bills of The Pennsylvania Railroad, and it will continue to move on the bills of lading and freight bills of The Pennsylvania Railroad. This applicant, the evidence will show, has no soliciting depart-

ment. It does not solicit freight. All it does is what I have just narrated. In this particular instance, The Pennsylvania Railroad is asking to enter into a contract, and it has entered into a contract, or contracts, with the applicant, to haul this freight for the railroad. The applicant is a wholly-owned subsidiary of The Pennsylvania Railroad. In other words, the evidence here will show that The Willett Company of Indiana, Inc. is owned by the American Contract & Trust Company of Philadelphia, and that all of the stock of the American Contract & Trust Company of Philadelphia is owned by The Pennsylvania Railroad. The evidence here will further show that The Pennsylvania Railroad does not care to enter into this kind of an arrangement with other truck lines. The Pennsylvania Railroad has employed, and this is what the evidence will show, the applicant to perform this same kind of service over 25 other routes in Indiana and Illinois, going as far west as East St. Louis, Illinois, and as far south as Louisville, Kentucky. In other words, they now have all of the western region, practically, west of the Indiana-Ohio state line, with the exception of one or two small routes; and it is that same type of service that we are seeking here. In other words, there are seven routes involved here, and The Pennsylvania Railroad desires that all of the service be performed by one carrier, and the railroad wants The Willett Company to be that one carrier, its own subsidiary. As I say, the evidence here will show that the applicant is a subsidiary of The Pennsylvania Railroad.

Mr. ANDERSON. If your Honor please, might I interrupt Mr. Yockey just briefly at this point, to ask him a question?

Exam. HARRISON. If Mr. Yockey has no objection.

Mr. HARRY YOCKEY. Go ahead.

Mr. ANDERSON. I think it would be well, in fact, I think it would be very helpful, and probably save some time, Mr. Yockey, if while you are making your opening statement, you would go a little further and explain what you call the key-point system; and also endeavor to distinguish for us clearly the difference between what you are requesting in that connection, and the "prior and subsequent movement by rail" proposition. Will you do that?

Mr. HARRY YOCKEY. Yes, I will; I will be very glad to. I think, as you say, it will save some time in the long run.

Exam. HARRISON. Yes.

Mr. HARRY YOCKEY. The "prior and subsequent movement by rail" clause referred to, is this, that no freight can be moved by truck—that is by the subsidiary in this case—unless it has had a part-movement by rail, either before or after. In other words, to give an illustration, a shipment that might come from New York, say, to Fort Wayne, Indiana, for delivery along any of these particular lines involved herein, could be hauled by truck anywhere

along these lines, clear north, if there was the "prior and subsequent movement by rail" clause inserted in the certificate, because it would have had a prior or subsequent movement by rail. On the other hand, to give you another illustration, suppose the shipment came in over one of these other 25 routes by truck, in the present operation. It would have to have, subsequent to that, some rail movement, the object being, of course, to insure that it would be a railroad operation. Now then, our evidence here will show that in some instances,—and it is not a large amount, or a large number of instances, but in some instances—sufficient to be material, that "prior and subsequent rail movement" clause is detrimental to the railroad, in its operation through this truck line, in the rest of its movement. Now, then, going to the key-point proposition—or rather, first, is that plain so far?

Mr. ANDERSON. Yes, I have always understood that.

12 Mr. HARRY YOCKEY. Is that plain to everybody so far?

If not, I am perfectly willing to make any further explanation that may be desired. Now, then, this key-point restriction that has been inserted by the Commission in some of the certificates, says that the applicant shall not transport any freight to, through, or from any particular two or more key-points, that will be named. Now, to give you an illustration of that in this case, we are going to ask that Fort Wayne, Indiana and Grand Rapids, Michigan be made key-points. That would mean that any freight that originates at Fort Wayne, and is destined for delivery at Grand Rapids, or at any point beyond that point, cannot be transported by truck. In other words, we would have to haul that freight by rail; that is, I mean, in our operation, with that restriction, we would have to haul that freight from Fort Wayne to Grand Rapids by rail; and if it was for local delivery in Grand Rapids, of course, it would be delivered locally; but it would be carried there by rail. If it was for delivery beyond that point, we will say, on the line that operates immediately north of there, from Grand Rapids to Cadillac, Michigan, we could carry it, then, to an intermediate point, or to intermediate points along there by truck. Now, in the reverse direction, the same thing would be true; that is, anything originating north of Grand Rapids, or in Grand Rapids, for delivery to Fort Wayne, or points beyond Fort Wayne, would have to be carried by rail from Grand

13 Rapids, or from any point north of there to Fort Wayne, because otherwise, if we did not do it that way, it would be going to, through, or from two key points; and there is no desire upon the part of The Pennsylvania Railroad to have this applicant haul in all instances its less than carload freight. The railroad company wants to haul it as far as possible, and in every practical way, by railroad, and the main purpose of this operation

is to handle the delivery of less than carload freight to intermediate stations along the line.

Mr. BARKELL. Mr. Yockey, may I interrupt you right there.

Mr. HARRY YOCKEY. Certainly.

Mr. BARKELL. I still do not just understand the difference between the two methods, or the two operations. Does not the key-point system require a rail movement?

Mr. HARRY YOCKEY. No, it does not.

Mr. BARKELL. Not at all?

Mr. HARRY YOCKEY. No, it does not. However, the Commission feels, in inserting that, that it does insure that it will keep that railroad business; and it is the intention of the applicant here to do that. And I will say this, that whether the restriction is in there or not, whether there is any restriction in there or not, that is the manner in which we would operate; and before we had any restriction, that was the manner in which we operated. In other words, between Indianapolis, Indiana and Louisville, Kentucky, where we have certificates at the present time, we never have hauled freight by truck, and it never was the intention to haul freight by truck between Indianapolis and Louisville, even before we had any restriction.

Mr. ANDERSON. Do you care to give us a statement, Mr. Yockey, at this time, of all of the key-points on these routes.

Mr. HARRY YOCKEY. I just stated them.

Mr. EGGERS. Mr. Yockey, I was just going to ask you this question: What determines the establishment of the key points? What are the elements taken into consideration, in other words, in establishing the key points; and who determines that?

Mr. HARRY YOCKEY. The two key points that I have just named, are Grand Rapids, Michigan, and Fort Wayne, Indiana. Now, we believe that those two points are the only points that are involved here, as far as interstate commerce is concerned, because this particular line, you understand, originates at Fort Wayne—that is, it comes from Fort Wayne north, and by the time you get a short distance, every bit of freight, of course, as far as this application is concerned, is interstate freight.

Mr. BARKELL. As far as key points are concerned, then, you do not want any more key points than those two; is that correct?

Mr. HARRY YOCKEY. That is right, yes, sir. I do not want to take the time now to attempt to go minutely into what the evidence will show, but our railroad witness, Mr. Christie, will go into the details of the key-point proposition, and all of these other matters.

Mr. EGGERS. All right.

Mr. HARRY YOCKEY. Unless you want me to take the time to explain further just at this time.



Mr. EGGERS. No.

Mr. HARRY YOCKEY. I think it would just unduly consume time. I think it would be preferable to wait for the testimony. However, is there any other question at this time?

Mr. ANDERSON. Yes. You have not named the key points as yet, as I understand it.

Mr. HARRY YOCKEY. I named two of them, Grand Rapids, Michigan, and Fort Wayne, Indiana.

Mr. ANDERSON. Do you want to name any of the rest of them at this time?

Mr. HARRY YOCKEY. Pardon me?

Mr. ANDERSON. Do you care to name any of the rest of the key points for us at this time?

Mr. HARRY YOCKEY. Those are the only two key points that we are asking for.

Mr. ANDERSON. The only thing was, you are requesting a restriction as to key points in this application, making that definite request, and I thought that we ought to have all of the key points stated for the record at this time. However, as I understand it now, the only two key points that you are requesting are Grand Rapids, Michigan, and Fort Wayne, Indiana.

16 Mr. HARRY YOCKEY. Yes.

Mr. ANDERSON. Now, there is this other question also: if, as you say, you expect this business to be all railroad business, and not to be in competition with the common carriers by motor vehicle, why are you unwilling to have the "prior and subsequent rail movement" clause inserted in your request in this application, or in your certificate, if one is granted?

Mr. HARRY YOCKEY. Well, that would undoubtedly hamper us in connection with a percentage of our business.

Mr. ANDERSON. Well, is it not true—

Mr. HARRY YOCKEY. However, as I stated a moment ago, Mr. Christie will go into that fully when he goes on the witness stand.

Mr. ANDERSON. Well, then, there is just this further question: is it not true, then, that by submitting this application without the "prior and subsequent movement by rail" clause, there will be nothing whatsoever in the authority, if granted, giving any assurance whatsoever that it will be limited to rail business, or making any requirement whatsoever, that it will be limited to rail business?

Mr. HARRY YOCKEY. Well, in every other certificate that we have, the Commission has limited us to the type of business that I have described here. In every one of our other certificates there have been inserted certain restrictions and limitations; and I would just take it for granted, as a matter of policy, without our attempting to go into it in this application, that the

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Commission is going to put restrictions in this certificate, if one is issued; and we are willing to stipulate that the restriction which we have requested, shall go into the certificate here when issued.

Mr. EGGERS. Are you speaking only of the key-point restrictions now?

Mr. HARRY YOCKEY. I say, we are willing to do that.

Mr. EGGERS. As the key-point restriction?

Mr. HARRY YOCKEY. Yes.

Mr. EGGERS. Are there other restrictions?

Mr. ANDERSON. Yes, there are some others.

Mr. HARRY YOCKEY. In addition to the key-point restriction, and the "prior and subsequent rail movement" clause restriction, there are set forth in there other restrictions with respect to the certificate. Shall I read them?

Mr. ANDERSON. No, that is not necessary. That is all clear, as far as I am concerned, but I do not want to ask one further question, now, in view of your statement, if I may.

Mr. EGGERS. Yes.

Mr. ANDERSON. What is to keep you from soliciting business at Fort Wayne, for any point on the route between Fort Wayne, Indiana and Grand Rapids, Michigan, and moving that business wholly by truck?

Mr. HARRY YOCKEY. To whom do you refer when you say "you"?

18 Mr. ANDERSON. I am referring to the applicant, The Willett Company.

Mr. HARRY YOCKEY. The applicant does not solicit any freight from anybody. It has no solicitors, and it is not going to have.

Mr. ANDERSON. Well, anybody who does the soliciting, then,—The Pennsylvania Railroad, say.

Mr. HARRY YOCKEY. I do not understand the question.

Mr. ANDERSON. The question is, if the authority should be granted here, as prayed for, what is to keep The Pennsylvania Railroad from soliciting business in Fort Wayne, for any point on this route intermediate to Grand Rapids, and moving it wholly by truck?

Mr. HARRY YOCKEY. At this particular time, their solicitors are soliciting freight from every point on the railroad. Their tariffs require them to serve every point on the railroad.

Mr. ANDERSON. You are not answering my question, Mr. Yockey.

Mr. HARRY YOCKEY. I will in just a moment.

Mr. ANDERSON. All right.

Mr. HARRY YOCKEY. As far as that particular less than carload freight is concerned, Mr. Christie will testify that there is only a small amount of freight involved between those points, and in this service, for instance, the railroad, just taking this as an illustration,

19 will take off of its local freight trains between Fort Wayne and Grand Rapids, the less than carload freight, and that means the less than carload cars. Now, then, if the railroad takes those cars off, the railroad cannot fill its obligation to the public, to serve each and all of those points along the line; so that if it takes those cars off, it is going to be compelled to send it by truck. But as I say, the amount of that business is a negligible amount. They are doing that on all of these other 25 routes that are in effect at the present time, and nobody has suffered. I have been in every one of those cases from the beginning, I might say, and I have never yet seen one iota of business on any of those 25 routes, in connection with which anybody has been damaged thereby.

Mr. ANDERSON. Well, all this is argumentative, of course. Now, will you answer my question, please.

Mr. HARRY YOCKEY. I did.

Mr. ANDERSON. No. Pardon me. You did not. I have asked you a specific question.

Mr. HARRY YOCKEY. I say, The Pennsylvania Railroad is compelled under its tariffs to take all of the business it can get, and it is soliciting business to and from every point on the railroad.

Mr. ANDERSON. Yes.

Mr. HARRY YOCKEY. And it will do that.

Mr. ANDERSON. We all understand that perfectly, Mr. Yockey, but you are still evading my question.

20 Mr. HARRY YOCKEY. I am not evading any question at all. I say, they will do that.

Mr. ANDERSON. And I say, I have asked you a specific question, and you are still evading it.

Mr. HARRY YOCKEY. I have answered the question.

Mr. ANDERSON. No, you have not.

Mr. HARRY YOCKEY. I made the statement that there is no intention on the part of the applicant to solicit freight.

Mr. ANDERSON. That does not answer my question. Will you answer the question, please.

Mr. EGGERS. Just a moment.

Mr. ANDERSON. Yes, your Honor?

Mr. EGGERS. I think Mr. Yockey has answered your question, Mr. Anderson.

Mr. ANDERSON. Well, I respectfully submit that he has not, your Honor.

Mr. EGGERS. Just a moment. You asked him whether or not The Willett Company or The Pennsylvania Railroad solicitors will solicit freight between Fort Wayne and points intermediate—

Mr. ANDERSON. No.

Mr. EGGERS. For delivery at Grand Rapids—did you not?

Mr. ANDERSON. No, your Honor, that was not my question at all.

21 Mr. HARRY YOCKEY. That is what I understood the question to be.

Mr. ANDERSON. I may not have expressed it very clearly, although I thought I did. Just to shorten it, then, your Honor, may I make a statement—

Mr. EGGERS. Yes.

Mr. ANDERSON. Of my understanding of Mr. Yockey's statement?

Mr. EGGERS. All right.

Mr. ANDERSON. I want to see if I understood you correctly, Mr. Yockey.

Mr. HARRY YOCKEY. Yes.

Mr. ANDERSON. I understand you to say that you will, either directly or indirectly, get the business, either through solicitation by Pennsylvania Railroad solicitors, or—whether you call them solicitors of The Pennsylvania Railroad or of the trucking company, at any rate, you will accept less than truckload business, and haul it between any two sets of points on these routes, as amended, with the exception of a direction operation between the two key points.

Mr. HARRY YOCKEY. Well, now—

Mr. ANDERSON. Is what what you said?

Mr. HARRY YOCKEY. Well, now, that depends on what you mean by "between."

Exam. HARRISON. Can you answer that question yes or no, Mr. Yockey?

22 Mr. HARRY YOCKEY. No, your Honor, I cannot answer the question yes or no, because it depends on what Mr. Anderson means by "between the two key points."

Mr. ANDERSON. mean, either way.

Mr. HARRY YOCKEY. We do not desire—

Mr. ANDERSON. From Fort Wayne to Grand Rapids, or from Grand Rapids to Fort Wayne; either way.

Mr. HARRY YOCKEY. We do not desire to haul between the key points, that is, from one key point to another.

Mr. ANDERSON. And all other points will be served exactly as any other truck line would serve them, will they not?

Mr. HARRY YOCKEY. No; I will not say that; definitely not; no.

Mr. ANDERSON. Well, you will at least attempt to serve them, although you cannot do as good a job.

Mr. HARRY YOCKEY. No; definitely not.

Mr. EGGERS. Well, now, gentlemen, I think a lot of these matters can be brought out in the evidence.

Mr. ANDERSON. Yes.

Mr. EGGERS. Particularly on cross examination.

Mr. HARRY YOCKEY. Yes.

Mr. ANDERSON. I think I understand Mr. Yockey now, and it is just what I said; my understanding now is the same as it was before; but as your Honor says, I think perhaps we can develop it better from the witnesses.

23 Mr. EGGERS. I think so.

Mr. CLARDY. There is one thing further, your Honor—and I say this at this time because I do not want my brother to claim to be taken by surprise later on. My client is very much of the opinion that the decisions of the Interstate Commerce Commission that have been referred to by my brother, are grievously in error, from the standpoint of the law; and I want him to understand at this time that I am going to try this case on the theory that the railroad, or anyone else, is exactly on the same footing, and that public convenience and necessity must be shown by the applicant, exactly as though my client were the applicant. In other words, I am going to try this case on the basis of a trial of the issues in court, if need be, when the matter has been concluded here, if the case is not decided exactly as it would be in every other instance. I say that because I think that the Commission has erred in the decisions that Mr. Yockey has referred to, and I think that this presents an excellent opportunity to try out in court, if necessary, all of those issues.

Mr. HARRY YOCKEY. We will not be surprised by anything that Mr. Clardy does.

Mr. CLARDY. I did not think you would be, but I just wanted you to be apprised at this time of our intentions in the matter, because I do not want you to say later that you did not understand that this was my attitude.

24 Mr. EGGERS. All right, now, gentlemen. Have you any further opening statement to make, Mr. Yockey?

Mr. HARRY YOCKEY. I believe not.

Mr. EGGERS. Mr. Anderson, would you like to make a brief statement?

Mr. ANDERSON. Yes.

Exam. HARRISON. Please make it brief, Mr. Anderson.

Mr. ANDERSON. Yes, I will, your Honor, because I only want to call attention to one or two points, and I think I should have that privilege, inasmuch as the remarks of Mr. Yockey have gone into the record, and we appreciate them, of course. I just want to point out to the Joint Board and the Commission that The Willett Com-



pany asked for authority in its previous applications, on business which had moved rail prior, or would move rail subsequent to the truck haul. We could all understand that, and that did keep it to the rail business. Now, we submit, and I believe the evidence will show that they throw it wide open when they merely talk about key-point business. This key-point proposition does not mean anything, except for the two points. And I submit that Mr. Yockey has not even yet answered my question, and I submit further that the evidence will show that this authority, if granted as prayed for in the application as amended, will give them the same right to haul business by motor truck, without regard to rail at all, except between those two key points, just as if there  
 25 were no railroad whatever involved. For that reason we take the same position that Mr. Clardy does, as just outlined by him, that the applicant must be placed on the same basis as if the XYZ Motor Company was coming in here and asking for this authority; it must be viewed in exactly the same way.

Mr. EGGERS. All right.

Mr. COWAN. If your Honor please.

Mr. EGGERS. Mr. Cowan?

Mr. COWAN. May I ask one question of Mr. Yockey?

Mr. EGGERS. Make it short.

Mr. HARRY YOCKEY. Yes.

Mr. COWAN. This is an application for common carrier authority, I take it: is that correct?

Mr. HARRY YOCKEY. Yes.

Mr. COWAN. Thank you.

Mr. EGGERS. All right. Now, are you ready to proceed with your evidence, Mr. Yockey?

Mr. HARRY YOCKEY. Yes.

Mr. EGGERS. You may call your first witness, please.

Mr. HARRY YOCKEY. Mr. Christie, please. I may say, if your Honor please, Mr. Anderson has suggested that we distribute our maps at this time, and I think it is a good suggestion, so I am going to pass them out right now, so that everybody may have them right from the start. We have two maps which we intend to introduce, and I will ask to have them marked as soon as I have identified the witness.

Mr. EGGERS. Very well.

E. M. CHRISTIE was sworn and testified as follows:

Direct examination by Mr. HARRY YOCKEY:

Q. You may state your name.

A. E. M. Christie.

Q. Where do you live?

A. Fort Wayne, Indiana.

Q. By whom are you employed?

A. The Pennsylvania Railroad Company.

Q. How long have you been so employed?

A. Over 35 years.

Q. In what capacity?

A. As supervising agent, on special duty.

Q. Assigned to what type of duty?

A. Assigned to the duty of finding ways and means for The Pennsylvania Railroad to better serve its patrons by utilizing motor trucks.

Q. How long have you been assigned to that particular duty?

A. Since April, 1935.

Q. In what territory?

A. In the territory known as the Western Region, which includes part of the states of Ohio and Kentucky, and the states of Illinois, Indiana, and Michigan.

27 Q. Now, then, during your employment by The Pennsylvania Railroad, have you had anything to do with the movement of carload and less than carload freight?

A. During all of my employment I have been in the transportation department, engaged in the handling of freight.

Q. Including both carload and less than carload freight?

A. Yes.

Q. Now, then, prior to your assignment to special duty, as you have just described, did you have any connection in any capacity with station-to-station truck routes?

A. Yes, sir; I did. While I was on the Fort Wayne division I established the first station-to-station truck route in the Western Region of The Pennsylvania Railroad.

Q. When was that first station-to-station route established?

A. In April, 1932.

Q. Have you been connected with The Willett Company of Indiana, the applicant herein, at any time?

A. Yes.

Q. In what capacity?

A. Director.

Q. When was that?

A. That was in 1935 and 1936.

Q. What were your duties?

A. I was assigned to making studies of the station-to-station work in connection with The Pennsylvania Railroad; to  
28 appear for The Willett Company in all hearings; to establish the operation of The Willett Company, and to see that it worked properly.

Q. And did you represent The Willett Company before the Public Service Commission of Indiana and the Interstate Commerce Commission in those hearings?

A. Yes.

Q. Those that came up during that period?

A. Yes, sir.

Q. So that generally you are acquainted, are you, with the service that is being performed by The Pennsylvania Railroad, and also The Willett Company?

A. Yes.

Q. Now, then, are you acquainted with the service—or rather, with the 25 routes that are in operation by The Willett Company, at the present time for The Pennsylvania Railroad?

A. Yes.

Q. With all of them?

A. Yes, sir.

Q. Did you have anything to do with establishing and laying out those 25 routes?

A. Yes, sir; I did. I either established or helped to establish all of them.

Mr. HARRY YOCKEY. Mr. Reporter, applicant's exhibit No. 1 for identification, please.

29 (Exhibit 1, Witness Christie, marked for identification.)

By Mr. HARRY YOCKEY:

Q. Now, Mr. Christie, I will hand you what has been marked by the Reporter as applicant's exhibit No. 1 for identification, and will ask you to state for the record what that is.

A. This exhibit No. 1 for identification is a map showing the route of The Pennsylvania Railroad and the route of The Willett Company of Indiana which serves The Pennsylvania Railroad on what is known as the 25 routes at the present time in operation.

Q. Now, then, is there set forth on this map a delineation of The Pennsylvania Railroad?

A. Yes, sir; The Pennsylvania Railroad is shown in the heavy black lines on the map.

Q. And are the routes of The Willett Company also shown on this particular map?

A. Yes, sir; the routes of The Willett Company are shown on the map in the red lines.

Q. Those are the 25 routes referred to?

A. Yes.

Q. And are those 25 routes in operation at the present time?

A. Yes, sir.

Q. And those are the routes that you either established or helped to establish; is that correct?

A. Yes; sir.

Q. Are all of those routes in operation at this particular time?

30 A. Yes, sir.

Mr. HARRY YOCKEY. Mr. Reporter, applicant's exhibit 2 for identification.

(Exhibit 2, Witness Christie, marked for identification.)

By Mr. HARRY YOCKEY:

Q. Now, then, I will hand you what has been marked by the Reporter as applicant's exhibit No. 2 for identification, and will ask you to state what that is.

A. This is a map, showing the route of the Pennsylvania Railroad, and the proposed route of The Willett Company of Indiana, that is being covered, or that is involved, at this time.

Q. You mean, those are the routes covered by the application now on hearing; is that correct?

A. Yes, sir.

Q. Now, you will notice in the corner of the map, the lower right hand corner of the map, where there is set forth a list of the routes, there has been one omission from that map, has there not?

A. Yes.

Q. What omission is that?

A. The Lake City-to-Manton route is not included on this map.

Q. Is not included in the list, you mean?

A. Yes.

Q. However, it is included on the map, is it not?

A. Yes, sir.

31 Q. Now, do the black lines shown on the map indicate the Pennsylvania Railroad?

A. Yes, sir.

Q. The heavy lines.

A. Yes, sir.

Q. And do the red lines indicate the proposed route of The Willett Company of Indiana, Inc.?

A. Yes, sir.

Q. So that the exhibit, this particular exhibit, is correct, with the exception of having left off the description, at the bottom, as far as that reading matter is concerned, of the Lake-City-to-Manton route; is that correct?

A. Yes, sir.

Q. All right. Now, do these two maps, exhibits 1 and 2 for identification, attempt to show the highways that are traveled by the applicant over the 25 routes referred to—or rather, exhibit 1, I should say?

A. No, sir; it does not. It simply shows the route of the Pennsylvania Railroad, and that part of the Pennsylvania Railroad that is covered by The Willett Company.

Q. And is the same thing true with respect to exhibit No. 2 for identification?

A. Yes.

Q. Showing the proposed routes?

A. Yes.

Q. If the exact routes were set out on these maps, they would be zigzag, would they not?

A. Yes, sir.

Q. Generally speaking, are the routes longer or shorter by rail than they are by truck?

A. The routes are generally longer by truck than they are by rail.

A. Longer by truck?

A. Yes.

Q. Who prepared these two exhibits?

A. They were prepared by our map department.

Q. Are they correct?

A. (Continuing.) Under my direction and supervision.

Q. Are they correct descriptions and delineations of the routes to which you have referred?

A. Yes, sir.

Mr. HARRY YOCKEY. If the Board please, we offer these two exhibits in evidence at this time.

Mr. EGGERS. Is there any objection?

Mr. ANDERSON. No objection.

Mr. MOBERLY. No objection.

Mr. EGGERS. There being no objection, applicant's exhibits Nos. 1 and 2 will be accepted and considered as read in evidence.

(Exhibits 1 and 2, Witness Christie, received in evidence.)

Mr. HARRY YOCKEY. Mr. Reporter, applicant's exhibit No. 3 for identification, please.

(Exhibit No. 3, Witness Christie, marked for identification.)

By Mr. HARRY YOCKEY:

Q. Mr. Christie, I will hand you what has been marked as applicant's exhibit No. 3 for identification, and will ask you to state for the record what that is.

A. This exhibit No. 3 for identification is a list of the present routes of The Willett Company of Indiana, in operation, as well as the proposed routes in this hearing, involved in this hearing.

Q. Referring to the last group of routes set forth in this particular exhibit, headed "Proposed routes covered by application MC 2815, Sub 6": those are the routes that are set forth on applicant's exhibit No. 2, are they?

A. Yes.



Q. And the ones that are involved in this particular hearing?

A. Yes.

Q. And the ones set forth on that exhibit immediately prior to that—that is, the routes that are set forth on the exhibit immediately prior to that, namely, the ones that are denominated “Grandfather application MC 2815,” and the next ones, MC 2815, BMC 10, the next ones, MC 2815 Sub 1, the next ones, MC 2815, Sub 2, the next ones, MC 2815, Sub 3, the next ones, MC 2815, Sub 4, and the next ones, MC 2815, Sub 5: are those the routes that are set forth, as described by you as being 25 in number, on applicant’s exhibit No. 1 here?

34 A. Yes, sir.

Mr. HARRY YOCKEY. We offer applicant’s exhibit No. 3 for identification in evidence.

Mr. EGGERS. Is there any objection?

Mr. ANDERSON. No objection.

Mr. MOBERLY. No objection.

Mr. EGGERS. There being no objection, applicant’s exhibit No. 3 will be accepted and considered as read in evidence.

(Exhibit 3, Witness Christie, received in evidence.).

By Mr. HARRY YOCKEY:

Q. Well, now, Mr. Christie, are you at the present time employed by The Willett Company of Indiana?

A. No, sir.

Q. Are you employed by anybody else other than The Pennsylvania Railroad Company?

A. No.

Q. Now, then, in laying out these routes that are now in operation, did you perform any services for The Pennsylvania Railroad?

A. I did.

Q. What were those services?

A. I located the routes over which the trucks of The Willett Company were to travel into and out of the stations to be served on The Pennsylvania Railroad; I made changes in the loading classification of The Pennsylvania Railroad, to best connect with the trucks; and I studied the schedules of freight train service on The Pennsylvania Railroad, in order to make those changes.

35 Q. And was it a part of your duties to determine whether or not a particular route should or should not be operated by the rail-truck method of operation?

A. It was, yes.

Q. As a part of your duties for the railroad—and when, in the course of my examination here, I may just refer to “the railroad,”

you will understand, of course, that I mean The Pennsylvania Railroad.

A. Yes.

Q. Was it a part of your duties for the railroad to make a study of the railroad train service, and establish the schedules for those routes?

A. Yes.

Q. Did you study that service?

A. I did study the service, yes, sir, and the cost of the freight train service, and made the schedules.

Q. And did you have anything to do with making or supervising the making of the schedules for the truck operation?

A. I prepared the schedules required by the trucking company for The Pennsylvania Railroad.

Q. Well, now then, in connection with the services which you have performed for The Willett Company, and also as a director of that company, were you acquainted with the cities and towns that were being served at that particular time?

A. Yes.

Q. And are you at the present time acquainted with the service that is being rendered over these particular 25 routes?

A. Yes.

Q. What is the fact as to whether or not part of your duties for The Pennsylvania Railroad had anything to do with familiarizing yourself, and keeping yourself familiarized, with the cities and towns that are served?

A. It was a part of my duty, and it is a part of my duty at the present time to be familiar with the trucking operations performed for The Pennsylvania Railroad by The Willett Company.

Q. Well, now then, what is the purpose of The Pennsylvania Railroad in instituting this station-to-station truck service, not only on the 25 routes, but also in wanting to establish it on the routes which are covered by this application?

A. The purpose of The Pennsylvania Railroad in this matter is to supplement the rail service, by truck service, in order that we may expedite the movement of freight for the patrons of the railroad; to make it a more economical operation; and to eliminate the use of boxcars, which will result in heavier loading of cars on our railroad.

Q. Does it have in view also the ability to conserve the use of boxcars?

A. Yes, sir. By doing that we would conserve the use of many boxcars, or as I said, eliminate the use of them, which is the same thing.

Q. Now, what type of service does that involve? That is, I mean, that The Willett Company is now performing, and that you

desire to have it perform, as to whether it is carload or less-than-carload freight.

A. Less-than-carload freight.

Q. Only?

A. Yes, sir.

Q. Now, then, by the use of trucks in station-to-station service, in lieu of way freight cars, are you able to load merchandise cars heavier on The Pennsylvania Railroad?

A. Yes, sir; we are. In 1937 the merchandise cars on The Pennsylvania Railroad averaged 2.84 tons per car. In 1941 they averaged 7.97 tons per car; and they have gone as high as 8.63 tons per car.

Q. What, if you know, has been responsible for the heavier loading of cars on The Pennsylvania Railroad?

A. The main reason for heavier loading of those cars is the elimination of the lightly loaded way freight cars, which freight is handled in station-to-station truck service.

Q. Why does The Pennsylvania Railroad want to save those cars?

A. We desire to save those cars to take care of the carload business, both for National Defense, and for private industry.

Q. Well, now then, just what do you mean by a way car, 38 or a way freight car?

A. That is a car that is loaded with freight for various destinations, that is unloaded by the crew of the local freight train.

Q. What kind of a train does such a car operate in, and it operated by?

A. It is operated in a local train that runs from point to point on The Pennsylvania Railroad, and serves all intermediate stations.

Q. Well, now then, would you mind just giving us an illustration of a freight train moving from, we will say, Fort Wayne, Indiana, north to Kalamazoo, Michigan. Just how does such a way car operate, and what is it that you desire to eliminate, in connection with its operation, if anything?

A. Well, for example, we will load a car out of Fort Wayne, Indiana, containing freight for points north, and this car will leave Fort Wayne in our local train to Kalamazoo, Michigan; and at any station intermediate, Fort Wayne to Kalamazoo, that they might have freight for, the local will stop at that station, and the crew will go through the car, and find the freight and unload it into the freight station at the particular point.

Q. The local way car, then, is in a local freight train?

A. Yes.

Q. That would move, in the illustration which you have just given, between Fort Wayne, Indiana, and Kalamazoo, Michigan.

39 A. Yes.

Q. And it is the desire, if I understand your testimony correctly, of the Pennsylvania Railroad, to take off that local car?

A. Yes, sir.

Q. And only haul, on the local freight train, carload shipments, or in the main, carload shipments?

A. Yes, sir.

Q. But it does desire to continue the local freight train, in the service of carload shipment?

A. Yes, sir.

Q. In this type of service which you are asking for here, and that is now being performed on the 25 routes, that is, in lieu of the way car service, the truck type of service that you are asking for here: it is the desire to have the truck carry the less than carload freight between those stations; is that correct?

A. Yes, sir; that is correct. The truck will carry the less than carload freight that is at the present time being carried in the way car, in the local freight train.

Q. Now, then, regarding the commodities that are involved in the less than carload freight where you desire this service performed: what are the requirements as to the kind of merchandise to be delivered by The Pennsylvania Railroad to The Willett Company for transportation along these new routes?

40 A. It will be commodities generally; all less than carload freight of The Pennsylvania Railroad.

Q. Now, then, what are the requirements for service along these particular lines?

A. (No answer.)

Q. In other words, Mr. Christie, what does the Pennsylvania Railroad require of the applicant here?

A. We require The Willett Company to transport this freight from station to station, on The Pennsylvania Railroad.

Q. Now, with respect to picking up freight, over the same territory that you just used in your illustration, between Fort Wayne, Indiana, and Kalamazoo, Michigan: after the truck picks up freight at Fort Wayne, and travels north, in addition to delivering the freight to local stations that was delivered to it at Fort Wayne for delivery at those intermediate points, does it also pick up freight?

A. Yes.

Q. Describe that operation if you will, please.

A. This truck will operate in the same manner as our local peddler freight cars. In other words, it will leave Fort Wayne with

freight for the various stations north, and it will unload freight at any station that it may have freight for; and in addition to that, it will pick-up outbound freight and take it to another station, to be forwarded on the train.

Q. When it gets to the other station, that is, when the freight gets to the other station, is it then picked up by a freight train and carried to its ultimate destination?

A. When it gets to destination—that is, I mean, when the truck gets to destination, any freight for points beyond will be unloaded, and generally speaking, it is loaded in a freight car and has a rail haul.

Q. Now, then, referring to this service which you have described in its entirety: is that in operation at this particular time by The Willett Company of Indiana, for The Pennsylvania Railroad, over the 25 routes which you have mentioned?

A. Yes.

Q. And will the service which you have just described be required and put into operation over the seven routes described in this application now on hearing—that is, by The Pennsylvania Railroad through The Willett Company?

A. Yes.

Q. Now, I believe you have testified there are no carload shipments involved.

A. That is correct; yes, sir. There are no carload shipments involved.

Q. Will the railroad company at any time attempt to turn over carload shipments to The Willett Company, the applicant?

A. No, sir; it will not.

Q. Now, Mr. Christie, in the proposed operation of the seven routes involved herein, is it the intention to have these trucks operated on any kind of a regular schedule?

A. Yes.

Q. Have you had anything to do regarding the time schedules which will be put into operation on the proposed routes?

A. Yes, sir; I have. I prepared the schedules which The Pennsylvania Railroad will require on these routes, and I consulted with the applicant to see whether or not it can conform with the schedules required.

Q. Have you done that in the present instance? That is, have you consulted with the applicant to see whether or not it can follow certain schedules, to conform with the operation of your freight trains?

A. Yes, sir.

Q. Has there been prepared a schedule of the type you have described, which is going to be put into operation on these routes?

A. Yes, sir.



Mr. HARRY YOCKEY. Mr. Reporter, applicant's exhibit No. 4 for identification, please.

(Exhibit 4, Witness Christie, marked for identification.)

By Mr. HARRY YOCKEY:

Q. Mr. Christie, I hand you now what has been marked by the Reporter as applicant's exhibit No. 4 for identification, and will ask you to state what that is.

A. This exhibit 4 for identification is the proposed schedule which it is expected will be put into effect on these routes, if the application be granted.

Q. Who prepared that list, or that schedule, or under whose direction and supervision was it prepared?

A. I prepared it myself.

Mr. YOCKEY. If the Board please, we offer applicant's exhibit 4 for identification in evidence.

Mr. EGGERS. Is there any objection?

Mr. ANDERSON. No objection.

Mr. CLARDY. There seems to be a little bit of a misnomer on the exhibit. It says "Proposed routes," and it should say "Proposed schedules," should it not?

Mr. HARRY YOCKLEY. Well, now, I think that is a good suggestion, your Honor. Let us just change that, right on the exhibit, if we may.

Mr. EGGERS. Yes.

Mr. HARRY YOCKEY. Let us say "Proposed schedule of routes." Is that satisfactory?

Mr. EGGERS. "Proposed schedule of routes"?

Mr. HARRY YOCKEY. Yes.

Mr. EGGERS. Is there any objection to the proposed amendment of applicant's exhibit 4 for identification?

Mr. ANDERSON. No objection here.

Mr. EGGERS. There being no objection, the amendment will be made, right on the face of the exhibit, and applicant's exhibit 4 will be accepted and considered as read in evidence.

(Exhibit 4, Witness Christie, received in evidence.)

By Mr. HARRY YOCKEY:

Q. Mr. Christie, are these schedules as set forth in applicant's exhibit No. 4 satisfactory to The Pennsylvania Railroad?

A. Yes, sir.

Mr. HARRY YOCKEY. Mr. Reporter, applicant's exhibit No. 5 for identification, please.

(Exhibit 5, Witness Christie, marked for identification.)

By Mr. HARRY YOCKEY:

Q. Mr. Christie, I hand you what has been marked applicant's exhibit 5 for identification, which is headed "Pennsylvania Railroad tonnage to be handled by applicant," and will ask you to identify that briefly for the record, please.

A. This exhibit 5 for identification is a statement showing the estimated monthly tonnage in pounds that The Pennsylvania Railroad will turn over to The Willett Company for handling; and the tonnage is shown by the various routes.

Q. Do you mean, for handling on the seven routes in question?

A. Yes, sir.

Q. Who prepared this exhibit?

A. I did.

Q. Where did you get the information which is set forth in the exhibit?

A. I secured the information contained in the exhibit from the records of The Pennsylvania Railroad.

Q. From the records of the The Pennsylvania Railroad, you say?

A. Yes.

45 Q. In other words, are these estimates based on the actual movement of freight on The Pennsylvania Railroad at this time?

A. Yes.

Q. Upon what did you base your estimates?

A. I based the estimates on the monthly summaries of 1941.

Mr. HARRY YOCKEY. If the Board please, at this time I offer applicant's exhibit No. 5 for identification in evidence—or rather, pardon me just a moment. Let me withdraw that offer for the moment, please.

Mr. EGGERS. Yes.

By Mr. HARRY YOCKEY:

Q. In this particular exhibit you have set forth the estimated tonnage on each of the routes, have you not?

A. Yes.

Mr. HARRY YOCKEY. Is there any objection, gentlemen, to my leading the witness just a little to save time?

Mr. ANDERSON. It is all right so far.

By Mr. HARRY YOCKEY:

Q. There is set forth on applicant's exhibit No. 5, with respect to the first route, between Fort Wayne, Indiana and Kalamazoo, Michigan, the calculation or the figures of 718,770 pounds.

Mr. BARKELL. Pardon me, Mr. Yockey, but may I interrupt you right there for a question.

Mr. HARRY YOCKEY. Yes.

By Mr. BARKELL:

46 Q. Can you tell us, Mr. Christie, how much of that tonnage actually originates in Fort Wayne?

A. How is that again?

Q. I say, are you able to tell us how much of the tonnage that you show here actually originates in Fort Wayne?

A. No, sir; I am not able to tell you that exactly, but I would say that it is very little. In other words, we make a car daily from Fort Wayne, Indiana to Kalamazoo, Michigan, and any tonnage that is in Kalamazoo, is from local points.

By Mr. HARRY YOCKEY:

Q. It is a very small amount, is it, Mr. Christie?

A. It would be a very small amount, yes, sir—that is, it would be very small, if any, and I question if there is any. I do not think that there is any; as a matter of fact, I feel sure that there is no tonnage included in that amount from Fort Wayne proper to Kalamazoo proper. I will make a positive statement to that effect.

Mr. HARRY YOCKEY. Was that all, your Honor?

Mr. BARKELL. Yes.

By Mr. HARRY YOCKEY:

Q. Now, then, Mr. Christie, the next illustration shown on exhibit 5 is the route between Grand Rapids, Michigan and Kalamazoo, Michigan, showing the figure of 217,100.

A. Yes.

Q. Is that the amount of freight that was transported by The Pennsylvania Railroad over that particular line during the month of December?

47 A. That is the amount of freight that will be turned over to The Willett Company.

Q. Yes. Now, then, the next route shown on the exhibit is the route from Grand Rapids to Cadillac, Michigan, 854,620 pounds.

A. Yes.

Q. These figures all indicate pounds.

A. Yes.

Q. The next one is the route between Grand Rapids and Muskegon; 831,090 pounds.

A. Yes.

Q. The next one is the route from Cadillac to Traverse City, Michigan, 280,020 pounds; and Cadillac to Petoskey, Michigan, 225,290 pounds; and the last one is the route from Petoskey to Mackinaw City, 273,130 pounds.

A. Right.

Q. That same thing is true of them also, is it?

A. Yes, sir.

Q. Making a total of 3,400,020 pounds over these seven routes.

A. Yes, sir.

Q. Which you estimate will be turned over monthly to The Willett Company, if this application be granted, for transportation over these particular routes; is that right?

A. That is the estimate, based on the monthly summaries, yes, sir.

Mr. HARRY YOCKEY. We offer applicant's exhibit No. 5  
48 for identification, in evidence.

Mr. EGGERS. Pardon me. I would like to ask one further question with reference to this exhibit.

Mr. HARRY YOCKEY. Yes.

By Mr. EGGERS:

Q. Mr. Christie, take, for example, the first route shown on the exhibit, from Fort Wayne, Indiana to Kalamazoo, Michigan. Is that figure based on the return also?

A. Yes.

Q. Both ways?

A. Both ways, yes, sir.

Q. So that, when you made the statement that very little of this tonnage originated in Fort Wayne, would that statement also apply to Kalamazoo, or is there a portion of the tonnage originating in Kalamazoo, destined to Fort Wayne?

A. There is not any tonnage in there from Kalamazoo to Fort Wayne, no, sir. There is tonnage in there from Kalamazoo for local stations, but not from Kalamazoo to Fort Wayne.

Mr. EGGERS. Oh, I see.

By Mr. CLARDY:

Q. I did not hear that last statement, Mr. Christie. From Kalamazoo to where?

A. I say, there is no tonnage included in here from Kalamazoo to Fort Wayne, but there is tonnage from Kalamazoo to local stations along the route.

Q. Oh. Well, that might include, then, intrastate tonnage, as well as interstate tonnage, might it not?

49 A. Yes.

Mr. EGGERS. Continue.

By Mr. HARRY YOCKEY:

Q. Now, the question has been raised as to what percentage of interstate tonnage is involved—or rather, let me put the question this way: in the transportation of freight over these particular routes, what percentage is interstate and what percentage is intrastate, if you know?

A. The intrastate percentage is 8.2, so that would leave as the interstate percentage, 91.8.

Q. So that 91.8 per cent of the transportation handled by The Pennsylvania Railroad over these particular lines of railroad involved herein, is interstate freight?

A. Yes, sir.

Q. And that is freight which it is desired, by this application here, to turn over to the applicant; is that correct?

A. Yes.

Q. For transportation over these seven routes.

A. Yes, sir.

By Mr. EGGERS:

Q. Now, Mr. Christie, let me ask you one further question.

A. Yes, sir.

Q. All of these figures, these percentage figures which you just gave, apply only to applicant's exhibit No. 5, do they, or do they apply to the entire route of The Pennsylvania Railroad?

A. To exhibit 5.

50 Mr. EGGERS. I see. Thank you. Now, I believe you have offered applicant's exhibit No. 5 for identification in evidence.

Mr. HARRY YOCKEY. Yes.

Mr. EGGERS. Is there any objection?

Mr. ANDERSON. We have no objection.

Mr. EGGERS. There being no objection, applicant's exhibit 5 will be accepted and considered as read in evidence.

(Exhibit 5, Witness Christie, received in evidence.)

By Mr. HARRY YOCKEY:

Q. Mr. Christie, have you made any study by way of a comparison between the service which is now being rendered in the all-rail movement, and the service that is being performed in the rail-and-truck service, by the applicant?

A. I have made a study of the service now being performed by The Willett Company, and the proposed rail-truck service.

Q. And you also have made a study of the old routes in time past, have you not?

A. Oh, yes.

Q. And you are acquainted with them?

A. Yes.

Mr. HARRY YOCKEY. Mr. Reporter, applicant's exhibit No. 6 for identification.

(Exhibit No. 6, Witness Christie, marked for identification.)



51

By Mr. HARRY YOCKEY:

Q. Now, Mr. Christie, I hand you what has been marked applicant's exhibit No. 6 for identification, and will ask you to identify that for the record, if you please.

A. This exhibit No. 6 for identification is a statement showing the proposed rail-truck schedule, as compared with the all-rail schedule. It shows the shipment from point of origin to point of destination traveling all-rail; it shows the date shipped; the date and point at which transferred, the date of arrival at destination, and the number of days consumed in-transit.

Q. Go ahead.

A. It also shows in-comparison the same information by way of the rail-truck method of handling.

Q. Well, now then; will you take for the purpose of illustration, the first shipments indicated on the first page of this exhibit, from New York City to Sturgis, Michigan. What do you mean by that?

A. (No answer.)

Q. In other words, is that a shipment originating at New York City destined for delivery at Sturgis, Michigan?

Mr. CLARDY. Well, now, your Honor, I want to interpose an objection. Thus far there has been a lot of testimony introduced here dealing with the matter of convenience to the railroad, which I have not objected to because I did not think it was anything other

than foundation evidence. But now I want to register  
52 an objection to this particular question, and to any other questions that may be akin to it, on this ground, that the question itself is clearly designed to deal with an alleged improvement of the service by truck as compared with rail, and therefore that is not material or competent to the issues here involved. To merely show that the service, by instituting a truck service, can be made better than it can be if that does not exist, is no proof of public convenience and necessity. I would like to have a ruling on my objection at this time, so as to obviate the trouble of my having to make the same objection to all future similar questions; and it will be understood, I assume, that the ruling you make on this objection, will so apply, so that, as I say, it will not be necessary to repeat it in the future, if you rule against me; or, of course, if you rule with me, why, then the difficulty is over.

Mr. HARRY YOCKEY. If the Joint Board please, I do not want to consume any undue time here, but if there is any doubt in your minds, I can give you my reasons for the question.

Mr. EGGERS: In answer to the objection interposed by Mr. Clardy, you may make a statement, Mr. Yockey, but please make it very concise and to the point, if you will.

Mr. HARRY YOCKEY. Yes, sir. This exhibit that we are submitting here, and the accompanying evidence in connection therewith, shows a comparison between the all-rail service and the rail-truck service, that goes to the very heart of this particular case, 53 this particular type of operation, and the reason for instituting it; and this has been one of the cardinal elements of the evidence in every one of the cases which we have heretofore presented, and in every one of those cases that has been permitted to be presented to the Commission, in all of the other station-to-station operations. It is our purpose to show by this exhibit, and this evidence, that the all-rail movement at this particular time consumes a certain amount of time, and that, by instituting the truck service in conjunction with the rail service, it will expedite the movement of the freight; and as we show on the exhibit here, that might expedite it, or cut the time down from one to two days, or from 24 to 48 hours. It has been in every one of our cases, as I say, and it is in every one of the other cases—I think probably there have been a hundred of them—that have gone up to the Commission. Now, if there is any doubt in your minds—

Mr. EGGERS: Perhaps there was no objection made to the evidence at that time.

Mr. HARRY YOCKEY. Pardon me?

Mr. EGGERS: I was just suggesting, Mr. Yockey, that possibly there was not any objection made to the evidence at that time.

Mr. HARRY YOCKEY. Oh, yes; there has been objection made to it.

Mr. CLARDY. Your Honor, may I say further that I anticipated that that statement would be made exactly as it has been 54 made, and in answer, I want to point out that I think the cardinal error in those other cases that counsel refers to was that in those cases they did receive precisely this type of information, or this type of evidence. My objection in substance, can be stated rather slangily in this way, that what it amounts to is the railroad hoisting itself by its own bootstraps. It is equivalent to saying, "We are giving poor service today, and now through our left hand, instead of our right hand, we want you to make it possible for us to give a faster service, and since we will not use anyone else but the applicant, that in and of itself entitles us automatically to the right to institute a new truck service." As counsel says, that goes right to the entire heart of the case, and I want to have my objection registered thus early, and as vigorously as I can, at this time, to receiving any evidence dealing with the relationship, in any manner whatsoever, between the parent and the child, either as an excuse or a reason, or as proof of public convenience and necessity. In other words, it is my contention

that here and now we have, out in the open, clearly and unblushingly stated, the proposition that the railroad is giving poor service, relatively speaking, and that it can improve the service if it be granted the right to operate a truck service. It is my contention that that is not proof of public convenience and necessity, any more than if my client came in and asked for an extension on the ground that by so doing it could better its own service. I

55 contend that it has no relation to the issues here, that it is wholly irrelevant, and I would like to have it ruled on here and now, because I do not want to have to argue it again, and I am sure Mr. Yockey will agree with me that the decision of the Joint Board at this time will be abided by, on both sides.

Mr. HARRY YOCKEY. Certainly.

Mr. CLARDY. As a future guide; and that will save all of our rights on either side, without having to interpose further objection to each particular question along similar lines.

Mr. ANDERSON. May the record show, if your Honors please, that I am joining in the objection raised by Mr. Clardy, on behalf of my clients.

Mr. COWAN. Let the record show that I also join in the objection raised by counsel for Interstate Motor Freight System.

Mr. EGGERS. Gentlemen, we will take a short recess at this time.

Mr. HARRY YOCKEY. If the Board please, before you recess, I would just like to say that if there is still any doubt in your minds, I would like to be heard further on the matter.

Mr. EGGERS. All right.

Mr. HARRY YOCKEY. Because it is important.

Mr. EGGERS. Yes.

(A recess was taken.)

56 Mr. EGGERS. Come to order, please, gentlemen. The objection raised by Mr. Clardy, to the question propounded to the witness last by Mr. Yockey, will be overruled; and you may show an exception on the record, Mr. Reporter, on behalf of protestants.

Mr. CLARDY. Now, your Honor, will it be understood that I have a continuing objection, without being compelled to repeat it specifically each time, to all testimony dealing with that particular subject?

Mr. EGGERS. Yes; it may be so understood.

Mr. CLARDY. Because I want it very clear on this record that I regard this type of testimony as merely and purely an effort to obtain the extension of authority requested here without showing public convenience and necessity, as required by the Congress; and I regard your ruling—and I say this with all due respect, of course—as constituting a gross discrimination against all of the

protestants, because of the fact that it permits the introduction into this record of a type of proof that would not be received in a similar case, on a similar application by a motor carrier.

Mr. HARRY YOCKY. We have no objection, of course, if the Board please, to Mr. Clardy's proposition of a continuing objection and exception. I think it will conserve time and record, if the record may just show that, and then we will not have to have the objection repeated as the question comes up.

Mr. CLARDY. Thank you.

57 Mr. EGGERS. The record may so show. Let us proceed.

Mr. HARRY YOCKEY. Will you read the question, please, Mr. Reporter.

(Question read.)

Mr. MOBERLY. Before we proceed, if the Board please, I would like to interpose an objection to that question also, for the reason that Mr. Yockey, on behalf of the applicant, is now attempting to put into the record a statement by the witness, and I assume he will continue to do so, with questions of this same nature, relative to shipments from points outside the states involved here, being the states of Indiana and Michigan. The routes covered by this application are such as to have caused this cause to be set before a Joint Board, composed of the two states of Indiana and Michigan. We now have an attempt to bring out evidence here, and to place evidence into this record, relative to shipments from without that particular territory. If we go into testimony relative to shipments from points outside of these two states, I believe that the evidence will be such as to remove this cause from the province or jurisdiction of the Joint Board.

Mr. CLARDY. I would like to join in that objection, for the very practical reason that the same question was raised against my client in one of its extension applications; recently heard, and we were excluded, by the ruling of that case, from presenting any testimony dealing with any movement between any  
58 points other than those in the territory involved in the notice.

Mr. HARRY YOCKEY. If the Board please, do you desire to hear further from me on the proposition?

Mr. EGGERS. No.

Mr. KIRKWOOD YOCKEY. The Board has ruled.

Mr. EGGERS. The Board has ruled, and the objection is overruled.

Mr. CLARDY. Your Honor, may I point out, that is another reason why I think the ruling is discriminating against the protestant motor carriers, in favor of the applicant.

Mr. HARRY YOCKEY. Are you amplifying your objection, now, as originally made in the record?

Mr. CLARDY. This is another objection.

Mr. HARRY YOCKEY. All right.

Mr. CLARDY. I just wanted to point that out, as another reason for our contention that the Joint Board, in its ruling, is discriminating here.

Mr. MOBERLY. As I understand it, your Honor, the Reporter will note an exception to each adverse ruling.

Mr. EGGERS. Yes.

Mr. CLARDY. The understanding is, I believe, that we are to have a continuing exception.

Mr. EGGERS. Yes. Show an exception to each adverse ruling, Mr. Reporter. Let us proceed.

By Mr. HARRY YOCKEY:

59 Q. Now, Mr. Christie, do you have the question in mind?

A. Yes.

Q. Will you answer it.

A. This shows a shipment originating at New York, N. Y., destined to Sturgis, Michigan. If it travels by all-rail, and is shipped from New York on January 26th, it will be at Fort Wayne, Indiana, and be transferred at that point on January the 28th. It will arrive at destination at Sturgis, Michigan, January 29th, having consumed three days in transit. Now, if that same shipment is handled by the rail-truck method, it will leave New York on a rail car on January 26th, arrive at Fort Wayne on January 28th, and be transferred immediately to a truck, which will depart the same day for Sturgis, and the shipment will arrive at Sturgis on January 28th, having consumed two days time in transit. In other words, the rail-truck method will expedite the movement of that shipment by one day.

Q. In other words, the shipment will be moved, and arrive at its destination one day quicker?

A. Yes, sir.

Q. If it is handled by rail-truck, than it would if it were moved by all-rail?

A. Yes, sir.

Q. And when you refer to all-rail, do you mean, where it would travel the entire distance by rail?

A. Yes, sir.

60 Q. But in this particular instance, or illustration, the shipment would go by rail from New York to Fort Wayne.

A. Yes.

Q. And then it would be moved by truck from Fort Wayne to Sturgis, Michigan; is that right?

A. Yes, sir.



Q. Now, then, have you set out on this exhibit, illustrations showing the saving in time on shipments covering each and every one of the seven routes?

A. I have.

Q. All right. Now, then, the next shipment shown on this exhibit is from Chicago, Illinois—

Mr. EGGERS. Mr. Yockey, I do not think it will be necessary for you to go through the entire exhibit.

Mr. HARRY YOCKEY. All right.

Mr. EGGERS. I think, with the explanation which the witness has already given, that the exhibit will speak for itself.

Mr. HARRY YOCKEY. All right, sir.

By Mr. HARRY YOCKEY:

Q. However, Mr. Christie, there is a saving in time, is there not, on each and every one of the shipments that are set forth in the exhibit?

A. Yes.

Q. That is the purpose of the comparison.

A. Yes.

Q. And the saving is from one to two days, is it not?

61 A. Yes, sir.

Mr. BARKELL. Mr. Yockey, let me interrupt, please, to ask a question right here.

Mr. HARRY YOCKEY. Yes.

By Mr. BARKELL:

Q. Mr. Christie, there is no more saving on a shipment from New York to Sturgis, Michigan, than there is on a shipment from Fort Wayne to Sturgis, is there?

A. Yes.

Q. In other words, all of your saving is taken up between Fort Wayne and Sturgis, on that shipment, is it not?

A. The saving in the time in transit is made in the transfer of the shipment from car to car at the Fort Wayne freight station, and the switching of the cars into and out of the freight station.

Q. Yes, I understand that all right, but I say, all of the saving in your time is made up at Fort Wayne, by the operation of your truck, is it not?

A. (No answer.)

Q. Substituting for the rail service.

A. Yes.

By Mr. HARRY YOCKEY:

Q. Well, now, I want to ask you a further question or two along that line, Mr. Christie. The illustrations that are set forth in this

exhibit: state whether or not they are illustrative of the handling of shipments over all of the seven routes.

62 A. Yes, sir; they are.

Q. And in making up this comparison, where did you get the figures that are shown in the exhibit?

A. I got the figures from the schedules of The Pennsylvania Railroad, and the proposed schedule of The Willett Company of Indiana.

Q. And by using those schedules, the result is obtained that you have set forth in the exhibit; is that correct?

A. Yes, sir.

Mr. CLARDY. Well, now, let me see if I understand that. Do you mean by that, Mr. Yockey, that the witness has not traced any particular shipment by rail in the past?

Mr. HARRY YOCKEY. Well, supposing we ask the witness to answer your question.

The WITNESS. I mean, that in the past I have in many instances traced a particular shipment; yes, sir.

Mr. CLARDY. Well, my question to Mr. Yockey was, are these all-rail figures concrete examples of specific movements, or were they just taken from the schedules themselves?

By Mr. HARRY YOCKEY:

Q. In other words, Mr. Christie, did you in making up this exhibit actually go over freight bills and find shipments moving between these points that are set out on the exhibit here?

63 A. These represent actual shipments, but the dates given are not actual, for the reason that I set all of the dates as on January 26th, in order that I might have a complete week, without a holiday or a Sunday intervening in between, to show the schedule for the week; nor did I have information showing the date of the shipments, on what I worked up this exhibit from.

Mr. CLARDY. Well, I will ask you further about it on cross-examination.

Mr. HARRY YOCKEY. Yes.

By Mr. HARRY YOCKEY:

Q. Well, then, Mr. Christie, as the result of this study that you have made, as indicated by the exhibit, will there be a saving on all of these routes of from 24 to 48 hours by this rail-truck method of handling?

A. Yes.

Mr. HARRY YOCKEY. We offer applicant's exhibit No. 6 for identification, in evidence.

Mr. EGGERS. Is there any objection?

Mr. CLARDY. My objection has been previously stated, and I just want to register it again at this time, without further argument.

Mr. EGGERS. Very well.

Mr. MOBERLY. And my objection, if the Board please, will be the same as the objection that I urged to Mr. Yockey's question a moment ago.

Mr. EGGERS. All right. Do any of the other counsel for protestants desire to join in the objection?

Mr. DES ROCHES. Yes.

64 Mr. KING. Yes, please.

Mr. EGGERS. Let the record show, Mr. Reporter, that all protestants join in the objection; and that the objection is overruled and an exception noted. Applicant's exhibit 6 will be accepted, over the objection of protestants, and considered as read in evidence.

(Exhibit 6, Witness Christie, received in evidence.)

By Mr. HARRY YOCKEY:

Q. Now, Mr. Christie, in the rail-truck service which you have described, on whose freight bills and under whose tariffs does the traffic move?

A. It moves on the freight bills and under the tariffs of The Pennsylvania Railroad.

Q. Including bills of lading?

A. Yes, sir; of The Pennsylvania Railroad.

Q. Now, then, is that true of all of the business, that is, The Willett Company business, that is hauled for The Pennsylvania Railroad on the 25 routes now in operation?

A. Yes.

Q. And will the same thing be true regarding the seven routes that are sought in this particular application?

Mr. CLARDY. To, which I object specifically on the grounds already stated. I think that this is even a worse example of permitting the applicant to show here that it will not comply with the rules and regulations of the Commission that apply to common motor carriers generally; but, on the contrary, that it  
65 will do something else. I think that this question very well illustrates the point that I want to make throughout this case, which is that this applicant is being treated in a way that discriminates against common motor carriers generally.

Mr. EGGERS. Let me hear that last question again, please, Mr. Reporter.

(Question read.)

Mr. HARRY YOCKEY. It goes only to the tariffs, the freight bills, and so forth.

Mr. CLARDY. That may be, but you see my objection.

Mr. HARRY YOCKEY. Oh, I see your objection, all right, but on the other hand, there is a limitation in every one of our certificates that limits us to hauling for The Pennsylvania Railroad; and it is cardinal that this applicant does not haul and does not seek to haul, anything on its own freight bills.

Mr. CLARDY. Well, I want it very clearly understood, now, so that I will not have to repeat it in connection with this same type of question, that I am objecting to any proof that they intend to operate in a manner other than the statute prescribes; that I regard an operation that does not comply with all of the rules and regulations of the Commission that apply to common motor carriers, as a violation of the statute; and that when you receive proof dealing with an operation that in my judgment this violates the rules and regulations of the Commission, and the statute, 66 you are discriminating against common motor carriers generally, and are treating the railroad as a special case, in violation of the statute. That is why I say I think they erred in all of the other cases that have thus far been tried.

Mr. EGGERS. All right. Now, just a moment. The objection is overruled.

Mr. HARRY YOCKEY. Read the question, please.

(Question read.)

A. Yes, sir.

By Mr. HARRY YOCKEY:

Q. Now, Mr. Christie, who originates all of the traffic involved, that we are talking about here?

A. The Pennsylvania Railroad or its connections.

Q. Does the applicant originate any of the traffic that is carried on the 25 routes now in operation?

A. No.

Q. Will the applicant originate any of the traffic that is to be carried over the seven new routes by truck?

A. No.

Q. Does the applicant appear as a participating party in the tariffs involved, covering any of the shipments which you have described?

A. No, sir.

Q. Or the ones which are to be transported over the seven new routes requested here?

A. No, sir.

67 Mr. CLARDY: Now, just so there is no question about it on the record, I assume that our objection—

Mr. HARRY YOCKEY. Is being noted.

Mr. CLARDY. Will continue.

Mr. HARRY YOCKEY. Yes.

Mr. EGGERS. That is correct.

Mr. CLARDY. Thank you. And exceptions are automatically noted, as I understand it.

Mr. EGGERS. Yes.

Mr. CLARDY. Very well.

By Mr. HARRY YOCKEY:

Q. Mr. Christie, are you acquainted with the order issued by the Interstate Commerce Commission in Ex Parte 129, under date of July 25th, 1939?

A. Yes.

Q. And has The Pennsylvania Railroad become a party to a certain Freight Service Directory, in conformity with the suggestion of the Interstate Commerce Commission in Ex Parte 129?

A. Yes, sir.

Q. In this directory have there been listed all of the cities and towns included within the 25 routes that are now in operation?

A. Yes.

Q. And does this directory contain a description of the service that is being rendered by The Pennsylvania Railroad over those particular routes?

68 A. It does.

Q. What is the name of that directory?

A. National Substituted Freight Service Directory, No. 1-A. L. E. Kipp, Agent.

Q. In this directory is The Willett Company of Indiana listed as performing service over all of the routes now in operation for The Pennsylvania Railroad?

A. Yes.

Q. Is The Pennsylvania Railroad now offering to the shipping public this freight service by The Willett Company, through the use of motor carrier service, over each and all of the routes now in operation?

A. Yes, sir.

Q. And is it the intention of the railroad company to list the seven routes, and the cities and towns on the seven routes, and also The Willett Company as a carrier to haul for the railroad, if this particular application is granted?

Mr. CLARDY. Now, to which I object, specifically, on the grounds already stated, and on the additional ground that the substituted freight service schedule that they are referring to, has been in the past offered, and undoubtedly will be offered again in this case, as a complete substitute for the tariffs ordinarily and normally required of other common motor carriers; and it is therefore objectionable to receive any testimony dealing with that, because it goes to prove a violation of law, and



69 not to support public convenience and necessity in any way. I do not care whether the Commission has permitted it to be filed or not. It is, in my judgment, a flagrant violation of law, and a rank discrimination against common motor carriers generally.

Mr. EGGERS. Will you let me hear that last question again, please, Mr. Reporter.

(Question read.)

Mr. CLARDY. Do your Honors understand the purport of what he is trying to get at in that question?

Mr. HARRY YOCKEY. If you do not, if there is any doubt in your minds, may it please the Board, I could like to answer the speech that has just been made by Mr. Clardy.

Mr. CLARDY. I wish you would just state, Mr. Yockey, what it is that you are trying to get at by that question, because if you do, I think you will get the point of what you are going to say.

Mr. HARRY YOCKEY. Of what you are going to say, or what you have said?

Mr. CLARDY. Both.

Mr. EGGERS. Go ahead.

70 Mr. HARRY YOCKEY. I have just asked Mr. Christie, if the Board please, if they had followed Ex Parte 129 in joining, or rather, in entering into Kipp's Substituted Freight Directory, and he said that they had over all of the 25 routes now in operation, that they have listed all of the cities and towns to be served, and they have named The Willett Company therein. Now, that is established. Mr. Clardy, of course, has the right to object to it, in order to lay a foundation, as he says, for a lawsuit that he is intending to bring later, and of course, we have no objection in the world to his doing that. Now, this is only one question that I have asked. I have asked the other questions, and those questions are already in, and there is only one question pending now, which is the necessary corollary to what we have developed; and that is, "Now, are you going to do the same thing here?" The witness answered, "Yes, we are going to do the same thing," and that is all that I want to show.

Mr. CLARDY. Of course, that is all he wants to show. Now, I did not object to the other questions, dealing with something in the past, that is not material to any issue here; but when he attempts to get into this record, now, the statement that in lieu and instead of filing the tariff, that is required of every other carrier in the United States, except those that are owned by the railroads, they are going to submit this Substituted Schedule, or Substituted Freight Directory, if he is going to be permitted to testify about this Substituted Freight Directory, then I contend that my interests immediately arise, because it indicates that instead of being

required to file a normal and ordinary tariff, they are going to attempt to tell you that they are going to file something else.

71 Now, it is true that in Ex Parte 129 the ruling was made—

Mr. HARRY YOCKEY. If the Board please, why should we waste time going into that question?

Exam. HARRISON. Just a moment.

Mr. HARRY YOCKEY. It seems to me that we are consuming a good deal of time unnecessarily here.

Mr. EGGERS. Let Mr. Clardy finish.

Mr. CLARDY. Let me say, to shorten it, that I just wanted to raise the question now, once and for all, and I say again, the thing that we are concerned with here and now is as to whether or not proof dealing with something that is a violation of the statute, should be received in evidence in this case; and I say that it should not be.

Mr. EGGERS. All right. Now, just a moment. The objection is overruled, and an exception noted.

Mr. CLARDY. Thank you.

By Mr. HARRY YOCKEY:

Q. Will you answer the question, please.

A. It will be.

Q. What is the answer?

A. It will be.

Q. Now, Mr. Christie, by the service which was described by you in the movement of freight by The Willett Company, do you expedite the movement of Pennsylvania Railroad freight over the movement formerly made by all-rail?

A. Well—

72 Mr. CLARDY. Now, just a moment. To which I object.

Mr. HARRY YOCKEY. That is exactly the same objection over again, if the Board please. Why go into it again?

Mr. CLARDY. No, this is not the same objection. This is a different one.

Mr. EGGERS. All right.

Mr. CLARDY. I am objecting now to any further reference to what they are doing on their present truck routes, on the ground that it has nothing to do with this operation. The fact that I may have sat silent when he was laying the foundation, does not change the fact that all of these questions dealing with that matter are clearly neither competent nor material.

Mr. COWAN. And the further objection, if the Board please, that the question calls for the conclusion of the witness. I think that the facts are what the Commission is interested in here.

Mr. EGGERS. The objection will be sustained.

Mr. HARRY YOCKEY. Well, now, if your Honor please, will you withhold your ruling for just a moment, until I have had an opportunity to say something.

Mr. EGGERS. You may make your statement for the record, Mr Yockey.

Mr. HARRY YOCKEY. No, your Honor; but you have already made a ruling on the objection, and the record shows your ruling.

Now, as I understand it, since you have made your ruling on the record, that precludes me from making an offer of proof. I would like to have the opportunity to make my offer of proof.

Mr. EGGERS. You may make your offer.

Mr. HARRY YOCKEY. But I cannot do that, your Honor, with a ruling standing on the record against me; and that is why I asked that you withhold your ruling until I had that opportunity.

Mr. CLARDY. The objection must have been sustained, before you are in a position to properly make your offer.

Mr. MOBERLY. Certainly.

Mr. HARRY YOCKEY. You are incorrect, but not to take time unnecessarily, may the ruling be withheld until I can make my offer?

Mr. CLARDY. You cannot very well make an offer, Mr. Yockey, until there has been a ruling against you.

Mr. HARRY YOCKEY. You are incorrect. The offer of proof must be made before the ruling.

Exam. HARRISON. Mr. Yockey, the question here is as to the need for this service from Fort Wayne, Indiana, up north into Michigan, and I think myself that we have been spending too much time here on what your present operations are.

Mr. HARRY YOCKEY. Well, it is really showing one complete operation, your Honor, as to what it is, or in other words, what we have done, and what we propose to do. Do you see what I mean?

Mr. CLARDY. Furthermore, the fact that the witness has stated his conclusion that it would be expedited at one point, does not have anything to do with what might happen somewhere else. I am going to further object to counsel leading his witness any further. I have not objected up to this point, because I think counsel's examination has been very helpful.

Mr. HARRY YOCKEY. I suggested sometime ago that if there was no objection, I would do that, to conserve time.

Mr. CLARDY. That is all right.

Mr. HARRY YOCKEY. I was simply doing it in the interests of time.

Mr. CLARDY. That is true. I am not accusing you of doing it improperly, because we did agree.

Mr. HARRY YOCKEY. Yes.

Mr. EGGERS. To save time, the record may show that the ruling is held in abeyance, Mr. Yockey, and you may make your offer of proof.

Mr. HARRY YOCKEY. Well, if the Board please, might we suspend at this time? It is practically 12 o'clock. I have tried to

save time here; I have gotten the testimony in as rapidly as possible. Now, I would very much like to have an opportunity to go through it during the noon hour, and eliminate that particular element in line with your ruling.

Mr. EGGERS. Very well.

Mr. HARRY YOCKEY. If that is agreeable.

Mr. CLARDY. Oh, yes.

Mr. HARRY YOCKEY. I think that might save time.

75 Mr. ANDERSON. We never object to that.

Mr. EGGERS. If we suspend now, gentlemen, can we all be back by 1:15? If that is agreeable, come back at that time.

(At 12 o'clock noon, recess until 1:15 p. m.)

#### AFTERNOON SESSION

The hearing was resumed pursuant to recess, at 1:15 p. m.

Mr. EGGERS. Come to order, please.

Mr. HARRY YOCKEY. Mr. Christie.

E. M. CHRISTIE resumed:

Mr. EGGERS. I take it you still have further direct examination of this witness, Mr. Yockey.

Mr. HARRY YOCKEY. Oh, yes.

Mr. EGGERS. Go ahead.

Mr. HARRY YOCKEY. Now, Mr. Reporter, may I have the last question read, and also the ruling, if I may, so that I will have the state of the record clearly in mind.

(The record was read.)

Mr. HARRY YOCKEY. I take it, your Honor, that the ruling is based on the fact that it applies to the present, rather than the future.

Mr. EGGERS. Yes.

Mr. HARRY YOCKEY. Is that correct?

Mr. EGGERS. Yes.

76 Mr. CLARDY. How is that?

Mr. HARRY YOCKEY. I say the ruling is that inasmuch as the question applies to present operations, it is objectionable.

Mr. EGGERS. That was the substance of it.

Mr. HARRY YOCKEY. All right.

Direct examination (cont'd) by Mr. HARRY YOCKEY:

Q. Now, Mr. Christie, you have already testified that the freight, if it is turned over to The Willett Company on the new routes, will be expedited from 24 to 48 hours.

A. Yes.

Q. Now, will you tell us in what manner that expedition will be performed, or brought about.

A. We will expedite the movement of the freight by the use of the rail-truck service, by eliminating the switching of the cars

into and out of the freight house, and the transfer of this freight from car to car at the transfer station. We will eliminate the switching of cars from the house. In some instances it is necessary for us to hold a peddler car over from one day to the next in the freight station, for the reason that the local freight operates on a tri-weekly basis. In such instances as that, the freight is expedited 48 hours.

Q. Well, now then, would you mind describing how the freight goes into the station. Take, for instance, from Fort Wayne, 77 Indiana, to Kalamazoo, Michigan: take a shipment, for instance, that will go over one of these routes from Fort Wayne to Kalamazoo, and along the lines of what you have just described, begin at the freight house, and tell us how you will expedite it there, and then tell us how the freight-train movement is involved.

A. Well, there may be a freight train from the east arriving at Fort Wayne with 100 cars in the train, say. Possibly 10 or 15 of those cars are merchandise cars.

Q. What do you mean by that?

A. Cars containing less than carload freight.

Q. All right.

A. Those cars naturally would have to be switched into the freight station at Fort Wayne. The other 85 or 90 cars of the train would be for destinations beyond Fort Wayne, or for industries in Fort Wayne, or connecting lines. When this train arrives in the yard, it is switched, or as we term it, broken up by a yard engine, that puts the cars over the hump, and switches them on separate tracks, according to where the cars are going. The merchandise cars for the Fort Wayne house would be switched on one track, and after the switching has been completed, a yard engine would move them from the yard to the Fort Wayne freight station, and place them at certain spots in the freight station, according to the place where the agent designates that they should go. This switching generally occurs during the night, and the

78 freight station is set up for operation as early as possible the next morning. When the freight station crews arrive for work, they are designated by gangs. A gang generally consists of five men. These men unload the cars. The freight for the trucks will go to the truck platform. The freight for delivery in the city will go to the proper spot on the platform. The freight to be transferred from car to car, will be transferred by these men. Now, after the freight has been unloaded from the car on the platform for the truck, it is loaded onto the truck immediately, and the truck departs the same day that the cars arrive in the freight station, and makes delivery of the freight the same day that it arrives at Fort Wayne. Whereas, if it is transferred



from car to car, that car is in the freight station all day, and at night it is closed and sealed, and pulled to a particular point; and the operation of again switching the car from the house yard by the yard engine and the classifying of the car on a certain track for a certain train consumes a few hours' time. The cars are forwarded out that night; whereas, by truck the freight leaves the same morning that it arrives in the freight station.

Q. In other words, then, Mr. Christie, taking the example of a shipment from New York, N. Y., to Sturgis, Michigan, which is set forth in applicant's exhibit No. 6: that particular shipment would come in on a freight train, that is, if it were moving via all-rail, it would come in on a freight train, in a certain car, and that car would be switched out of that train at Fort Wayne into the Fort Wayne yard. Is that correct?

A. Yes.

Q. And then into the freight house.

A. Yes.

Q. And during a 24-hour period, that freight would be taken out of that particular boxcar and put into another boxcar which was spotted there for deliveries north out of Fort Wayne, to points north, including Sturgis. Is that right.

A. Yes.

Q. And the freight would be carried, then, by the local freight train that leaves Fort Wayne, going to Sturgis, Michigan?

A. Yes.

Q. So that during that period, 24 hours' time is consumed by the rail method; is that correct?

A. Yes, sir.

Q. In transferring that freight from the train that it came from New York in, to the train that goes from Fort Wayne to Sturgis?

A. Yes, sir.

Q. Now, then; by this rail-truck method, you will save 24 hours' time there; is that correct?

A. Yes, sir; that is correct, for the reason that the shipments are unloaded directly out of the car to the truck, and the truck departs from Fort Wayne within a few hours after the freight has arrived there.

Q. So that you would save 24 hours at that point?

A. Yes.

Mr. MOBERLY. If the Board please, I assume that my previous objection is understood to continue to all of this line of testimony relative to shipments from states other than Indiana and Illinois.

Mr. EGGERS. Yes.

Mr. MOBERLY. And the objection is overruled, and an exception noted.

Mr. EGGERS. It will be so ordered.

Mr. MOBERLY. Thank you.

Mr. CLARDY. The record also shows that I have a continuing objection to all of this line of examination.

By Mr. BARKEM:

Q. Is it possible, Mr. Witness, that you could give better rail service than that?

A. Well, I would say that anything is possible. In other words, we could run a train out with only one car in it. But it certainly would not be a profitable operation to do anything like that.

Q. Well, I was thinking more about the physical operation in connection with this handling that you have described here. Except for the switching of these cars around at Fort Wayne, the same physical operation is involved, is it not?

A. No, sir. It would not be practicable to do that.

Q. Why not?

81 A. For the reason that we set up the Fort Wayne house, and we have got approximately 100 cars in the house. Now, if you go to pull that house before the entire work is completed, then you have caused them to take out their door plates, close the cars, and discontinue using that track, and you have delayed the operation of the freight station, and you would have an expensive operation for special run switching there; so it would not be practicable to do that kind of job.

Q. In other words, it takes 24 hours longer to perform that operation, than it would to unload from the car to the truck?

A. It is generally conceded that any transfer into a freight station of that size, requires 24 hours; yes, sir.

By Mr. HARRY YOCKEY:

Q. And is that true of all points of that type—

A. Yes.

Q. All over the Pennsylvania Railroad?

A. Yes, sir.

Q. And other railroads as well?

A. Yes, sir.

Mr. CLARDY. Well, now, just a moment, please. Let us not have the witness endeavor to speak for other railroads. He cannot speak for any railroad except The Pennsylvania Railroad.

Mr. HARRY YOCKEY. If he knows—

The WITNESS. I will say, on the Pennsylvania Railroad.

82 Mr. EGGERS. Yes; we will strike from the testimony of this witness any reference pertaining to other railroads.

Mr. HARRY YOCKEY. All right.

Mr. CLARDY. The service on the other railroads may be just as bad, but you ought to bring in somebody else to testify about it.

By Mr. HARRY YOCKEY:

Q. Well, now then, Mr. Christie, where are the instances in which you expedite the movement of the freight 48 hours, that you have testified about?

A. There are instances where the local freight train operates on a triweekly basis. In other words, it will operate in one direction three days a week, and then it will operate in the reverse direction three days a week. In such instances as that, the crew at the present time operates every other day; while under this proposed rail-truck operation, the truck would operate every day, and thereby expedite the movement of the freight 48 hours.

Mr. CLARDY. Mr. Yockey, I am not quite sure whether I caught your question correctly or not. But are you not assuming, and is the witness not assuming in all of this testimony, that all of the freight into the Fort Wayne house, which you have used as an illustration, would arrive during the night sometime, and before the scheduled time that you have set up for the departure of the truck?

By Mr. HARRY YOCKEY:

Q. Is that right?

83 A. No, sir; not all of them—not all of the trains would arrive at that time, but the majority of them would, I would say.

By Mr. CLARDY:

Q. Well, Witness, the only reason I asked that question was with your scheduled time of departure at 9 o'clock out of Fort Wayne, if the train that brought the freight in got in after the 9 o'clock departure time, the movement of the freight would not be expedited, would it?

A. That train, that particular train that I had reference to there, is due at Fort Wayne at 12:30 a. m., and the cars are placed at the freight house at 4 o'clock a. m.

Q. But anything that arrived there after 8 or 9 o'clock in the morning, at the present time, would not get out on the same day it arrived there, would it?

A. That is true.

Mr. HARRY YOCKEY. Of anything that arrived there on through until—I take it you mean by truck, do you not?

Mr. CLARDY. Yes.

Mr. HARRY YOCKEY. That is right.

By Mr. HARRY YOCKEY:

Q. Well, now then, Mr. Christie, is there any other manner of operation, or place, or condition, under which there is a saving of 48 hours?

A. Yes.

Q. Where is that?

A. There are times when there is not sufficient tonnage to justify forwarding the car, and it is set back in the freight house until the following day, held over until the second day for forwarding. However, in this case, this proposed operation, it would be forwarded on the truck daily, so that we would expedite the movement of freight there 48 hours, also.

Q. Now, are there any other conditions that I have not asked you about, under which there would be an expedition in time from 24 to 48 hours?

A. Well, there is the condition of where a shipment is picked up by a Willett Company truck and taken to the transfer station, and is also delivered by a Willett Company truck on the delivery end, where we advance the delivery time of the shipment 48 hours.

Q. In other words, shipments that would originate at an intermediate point close to Fort Wayne, if that shipment were destined for delivery in Kalamazoo, Michigan, let us say, that shipment would go by truck, would it?

A. No.

Q. Into Fort Wayne?

A. No, sir; that would not be an example.

Q. All right. Then you give us an example.

A. That shipment would get 24 hours advance movement; but take the example of a shipment from Columbia City, Indiana, say, for instance, going to a point north of Grand Rapids. We would pick that up by truck at Columbia City, take it into Fort Wayne, and load it into a car the same day, and it would be in Grand

Rapids the following day, and move on the truck to destination; and in that manner we would expedite the movement of that shipment 48 hours, because we would save 24 hours at Fort Wayne, and 24 hours also at Grand Rapids.

Q. The manner of handling freight in the freight house, which you have described at Fort Wayne, is also true at Grand Rapids; is it?

A. Yes, sir.

By Mr. EGGERS:

Q. Is it true at any other point on this proposed route?

A. Yes, sir—well, we do not have any other large freight station on the proposed route.

Q. In other words, then, Grand Rapids and Fort Wayne—

A. Right.

Q. Are the only two points?

A. They are the only two large stations that we have on the route, that we classify as transfer stations, where a number of cars are handled.

Q. There would not be any particular delay, then, at any of the other points on the proposed route, would there?

A. Oh, yes, sir; there would; there would be a delay in getting the cars in and out. For example, taking Cadillac: say we have a car from Cadillac to Fort Wayne. By this method here, we would truck the freight to Cadillac, and put it directly into the car, and get it to Fort Wayne the next morning; whereas, if we had  
86 to do it by all-rail, it would stay there until the next day.

Q. Where?

A. At Cadillac.

Q. At Cadillac?

A. Yes, sir. While Cadillac is a small station, and does not handle a large amount of business, we would save the same amount of time there, because, from the time the cars arrive in the yard, and are placed in the freight house, it is next day before they are switched.

Q. But as far as Cadillac is concerned, Mr. Christie, is that not due to the fact that you do not have enough freight to move an entire car out of Cadillac? Is that not the reason?

A. We will have enough freight to move the entire car under this proposed plan; yes, sir.

Q. No; I mean, under your present setup, under your present system of operation?

A. That is right.

Q. You do not have?

A. We do not have enough freight to make a car at Fort Wayne; that is correct.

Q. So that you are compelled to hold it, then, for another 25 hours?

A. We hold the car at Cadillac until we have sufficient tonnage; and then when the car departs, it goes as a way car to Grand Rapids. It is on the way the next day, on the local train, and  
87 then it goes into the Grand Rapids freight station.

Q. Would your answers be substantially the same with respect to every other point on the route—

A. Yes.

Q. Through Grand Rapids and Fort Wayne?

A. Yes.

Mr. EGGERS. All right.

By Mr. HARRY YOCKEY:

Q. Now, Mr. Christie, regarding all-rail shipments for delivery by truck north of Fort Wayne: It is a fact, then, is it not, that on all shipments coming over the railroad to Fort Wayne, that originate at points other than Fort Wayne, there will be an expedition of 48 hours, by reason of the fact that on the rail shipments that come by rail into Fort Wayne from some other point,



you lose 24 hours there, and then when those shipments go by rail to Grand Rapids, there is also 24 hours lost there, so that they go forward with an additional 24 hours lost. Is that correct?

A. Yes, sir, that is correct. There would be a 48 hour delay, when a shipment goes through Fort Wayne and Grand Rapids, where it is handled in the manner that we have described.

Mr. CLARDY. Now, just a moment.

Mr. EGGERS. Did you have something, Mr. Clardy?

Mr. CLARDY. Yes, your Honor. I am objecting to this, now, after it has been answered, because I do not believe the statement made by counsel is correct, and the evasive answer just given by the witness proves it. May both the question and the answer be read by the Reporter, your Honor. I do not think the witness has answered the question.

(Question read.)

Mr. EGGERS. I think that question has been answered, Mr. Clardy.

Mr. CLARDY. Well, may we hear the answer.

(Answer read.)

Mr. HARRY YOCKEY. To save time, let me clarify it.

Mr. CLARDY. The reason I say, I think it is an incorrect statement, is this—

Mr. HARRY YOCKEY. Let me ask him another question.

Mr. Clardy. If your opening statement means anything, it is going to move by rail, under the condition that you have named, all the way to Grand Rapids, and hit the truck for the first time at Grand Rapids,—or else your key-point illustration, does not mean anything.

Mr. EGGERS. I believe that is correct, Mr. Yockey. I think you had better clarify that.

Mr. HARRY YOCKEY. Yes.

Mr. CLARDY. I think so.

By Mr. HARRY YOCKEY:

Q. Now, Mr. Christie, is it true that in all of the instances that I have enumerated there will be a 48-hour loss, or will some of that loss be less?

A. Well, now, I do not just know myself where we stand here, and I would like to make plain what I had in mind, in answering that question.

Q. Yes.

A. According to the way I understood the question. The question was to the effect that, if these shipments traveled by all-rail—

Q. Right.

A. There would be a 48-hour delay.

Q. Yes.

A. Now my answer to that question is: Yes; that is, as compared with the all-rail method, if the shipments are handled by truck to Fort Wayne, and then by rail to Grand Rapids, and then trucked out in the manner that I have just described, there will be a 48-hour saving.

Q. Yes. However, though, Mr. Christie, there are some—  
Mr. EGGERS. Well, now, just a moment, Mr. Yockey. I do not just follow that.

Mr. CLARDY. I do not follow it either, but I will go into it further on cross-examination.

Mr. BARKELL. I do not follow it, either.

Mr. HARRY YOCKEY. Let me try to clarify it further, your Honor.

By Mr. HARRY YOCKEY:

Q. There are some instances, though, are there not, Mr. Christie, where there will only be a 24-hour saving?

A. Yes.

90 Q. And they will be where a car comes through from some other point that is classified for delivery at Grand Rapids, that will go through Fort Wayne without the loss of any time; if it is a full car; is that correct?

A. I do not quite understand that question, now.

Q. Well, as I understand it then, let me put it this way: Are there any instances where there will be only a 24-hour saving in time, by the proposed method?

A. I have given many instances of where there will be only a 24-hour saving.

Q. Well, I mean, specifically, on a movement through Fort Wayne and Grand Rapids.

A. Oh, yes. That shipment would come into Fort Wayne in a car, and then it would be transferred the same day to Grand Rapids in a car, and then by truck, there will be a 24-hour saving.

Q. In the same car, at Fort Wayne?

A. Pardon me?

Q. In the same car, out of Fort Wayne?

A. Well, the same car, or another car.

Mr. HARRY YOCKEY. Does that clarify it now, if your Honor please?

Mr. CLARDY. I think it is at least substantially in line with your opening statement.

Mr. HARRY YOCKEY. All right.

91 Mr. CLARDY. If I correctly understand the way you are going to operate.

Mr. EGGERS. You can go further into the matter in detail, of course, on cross-examination.

Mr. HARRY YOCKEY. Yes.

Mr. CLARDY. Oh, yes, your Honor, I am going to have quite a few matters to develop from this witness on cross-examination.

Mr. EGGERS. Proceed.

By Mr. HARRY YOCKEY:

Q. Now, then, Mr. Christie, in the movement as you have described it here, is there any reduction in operating expense to the Pennsylvania Railroad, under the all-rail movement, by reason of the rail-track movement—or will there be any such reduction, rather, over these particular routes?

Mr. CLARDY. To which we object. Did you hear the question, your Honor?

Mr. EGGERS. Read it, please.

(Question read.)

Mr. CLARDY. Your Honor, all of the reasons which I have advanced up until now, in my other objections, apply here, plus the fact that, if there is a saving to the railroad company, it has no bearing on the issue of public convenience and necessity in this proceeding. If there is such a saving, it is as I say, a saving to the railroad company, and certainly would not be any substantial reason why the public should have another carrier inflicted  
92 upon it over these particular highways. If that is any ground for showing public convenience and necessity, then all you have to do is to show any ridiculous thing that you can think of. I cannot by any stretch of the imagination see how a saving to a carrier can be translated into any convenience or necessity to the public. The situation, so far as the public is concerned, is going to remain the same.

Mr. HARRY YOCKEY. Now, if the Board please, I would just like to make this observation, that the mere fact that Mr. Clardy cannot see something here does not decide the question, at all. In every one of these cases, every one of these rail cases, involving this same type of station-to-station operation, there has developed this very proposition, that it is considered an expedition of the service, an economy and a saving to the railroad. That is in every one of these cases, and we have developed it over opposition in every case that has been tried.

Mr. EGGERS. Well, can you advance any reason for it in this case, Mr. Yockey?

Mr. HARRY YOCKEY. Why, yes.

Mr. EGGERS. We will appreciate, of course, being advised of anything that has been done in the past, but if we are convinced ourselves that the ruling should be one way or the other, why, then we should rule as we see it. Merely because something was done before, I do not think is any good reason why it should be done here again, although of course, we will give consideration to the opinion of the Commission.

93 Mr. HARRY YOCKEY. Yes, Mr. Chairman, I shall be glad

to. In these cases there are several elements, as to why this proposed service is a convenience and necessity to the public. First—and we have gone into that here—is the matter of the time element, the expedition of the movement of freight.

Mr. EGGERS. And we have permitted the evidence as to that to go in.

Mr. HARRY YOCKEY. Yes. Then the witness has told you that there is a saving involved to the railroad. The railroad itself is an essential element in this case. The railroad is able, by these economies concerning which the witness will testify, that this service does effect, to perform a more economical operation. Now, that is considered to be one of the cardinal reasons in this case, and as I said, in every one of them.

Mr. BARKELL. Will you answer this question directly, Mr. Yockey, as to what a saving to the railroad has to do with convenience and necessity to the public?

Mr. HARRY YOCKEY. Well, it has something to do with it because the Commission has so ruled in every one of the cases.

Mr. BARKELL. Well, can you tell us, in the particular case that we are considering right now?

Mr. HARRY YOCKEY. Why, it is a condition in every case. Where you can show economy of operation, it is always a vital part of the case, a vital question in the case, in connection with public convenience and necessity.

94 Mr. BARKELL. If it is reflected back to the public, it may be; yes.

Mr. ANDERSON. It may be an economy of operation to the railroad, your Honors, but the railroad is not the applicant here.

Mr. HARRY YOCKEY. The Commission has decided in these cases that ultimately the public benefits by economy of operation.

Mr. EGGERS. I think that Mr. Anderson has something there also, in the point that he just mentioned. It might be a saving to the railroad company, but the railroad is not the applicant in this case.

Mr. ANDERSON. Right.

Mr. HARRY YOCKEY. But it is in every one of these other cases, your Honor.

Mr. ANDERSON. That may be.

Mr. HARRY YOCKEY. We have it in every one of the cases.

Mr. EGGERS. The objection is sustained.

Mr. HARRY YOCKEY. Now on this matter, if the Board please, as on the other one, may I ask you to withdraw your ruling, so that I may make an offer to prove; and then let the record show your ruling afterward. The rules of evidence require that an offer to prove must be made, and then the ruling made. That is the procedure that ought to be followed. Of course, it is an

95. impractical rule, but nevertheless, that is the rule of evidence, and unless the record is made that way, it will not be of any value to us.

Mr. EGGERS. Off the record.

(Discussion outside the record.)

Mr. EGGERS. Back on the record. The Joint Board will withdraw its ruling temporarily, in order to give Mr. Harry Yockey counsel for applicant, opportunity to make an offer of proof.

Mr. HARRY YOCKEY. Thank you.

Mr. CLARDY. Well, we will, of course, register our objection to the offer.

Mr. HARRY YOCKEY. Oh, yes.

Mr. CLARDY. When he is finished with it.

Mr. HARRY YOCKEY. If the Joint Board please, may I have just a few minutes here to get things in shape, please.

Mr. EGGERS. All right. We will suspend for a short time.

(A short recess was taken.)

Mr. EGGERS. Come to order, please, gentlemen. Are you ready to proceed, Mr. Yockey?

Mr. HARRY YOCKEY. I would like to have the privilege now, if your Honors please, of not pursuing this particular bit of evidence with Mr. Christie any further at this time, but after his examination in chief has been completed, and his cross-examination, I would like to have the privilege of putting him back on the witness stand to ask him further questions along this line.

96. Mr. EGGERS. Granted.

Mr. HARRY YOCKEY. Thank you.

Mr. CLARDY. Well, I will say right now, your Honors, that I do not want to cross-examine the witness until counsel for the applicant has finished all of his direct examination.

By Mr. HARRY YOCKEY:.

Q. Now, Mr. Christie, by eliminating these less than carload cars from the local freight trains of the Pennsylvania Railroad, do you in any manner improve the service to your carload patrons?

A. Yes, we do.

Q. State how.

A. For the reason that it is a hard matter to make a schedule for local freight trains that will best serve the convenience of the carload shippers, and the less than carload shippers as well; and by eliminating the way car from the local peddler freight trains, it leaves us free to schedule those local freight trains at a time that will best serve the conveniences of the carload patrons.

Q. Well, now, Mr. Christie, does the service—or will the service that you have just described here, that will be put in, if the authority is granted, over the seven new routes, coordinate with and supplement the service of the Pennsylvania Railroad?



Mr. CLARDY. To which I object on the ground that it calls for a conclusion on the part of the witness, and furthermore, I do not know if I myself understand what it means.

97 Mr. HARRY YOCKEY. Well every one of the decisions goes into the question of supplementing the service, that the service must be a supplementary service to the rail service, so that the whole thing is a question of supplementing the rail service.

Mr. ANDERSON. I object to the question on the further ground, if the Board please, that it is not a question of supplemented service in this case. We will concede that it was in the other cases, where there was the "prior and subsequent rail haul" provision, but in this particular application they do not have that, and therefore there is no supplementation of Pennsylvania Railroad service whatsoever.

Mr. HARRY YOCKEY. Well, of course, your Honors, that is merely Mr. Anderson's opinion of it.

Mr. ANDERSON. Just a moment.

Mr. HARRY YOCKEY. We say that that there is.

Mr. ANDERSON. Let me finish.

Mr. HARRY YOCKEY. Mr. Christie will testify that there is.

Mr. ANDERSON. You say that there is; wholly on the ground of the fact that it will move on a Pennsylvania Railroad freight bill, and the solicitors of the Pennsylvania Railroad will do the soliciting; but, as a matter of fact, it is not supplementing it at all. It is simply a matter of their going out and getting all of the  
98 freight they can, from every possible quarter that they can get it from; and for that reason the ruling in another case, that may have been similar to this, would not apply in this case at all.

Mr. EGGERS. Now just a moment, gentlemen. May I hear that last question, please, Mr. Reporter?

(Question read.)

Mr. EGGERS. The objection is overruled, and an exception noted.

By Mr. HARRY YOCKEY:

Q. The Board has ruled that you may answer the question, Mr. Christie.

A. Would you mind giving me the question again?

(Question again read.)

A. Yes, sir, it will coordinate the service of the Pennsylvania Railroad and the service of The Willett Company and bring them into closer relationship; and it will supplement the service of the Pennsylvania Railroad by the use of the motor truck.

Mr. COWAN. I move, if the Board please, that the answer with respect to coordination, and supplementing the service of the Pennsylvania Railroad, be stricken from the record.

Mr. HARRY YOCKEY. What part of it?

Mr. COWAN. The witness is talking about coordination, and closer relationship, between The Willett Company and the Pennsylvania Railroad, which does not have any bearing at all on his answer to your question.

Mr. HARRY YOCKEY. Why, that is coordination, Mr. Cowan.

99 Mr. EGGERS. Just a moment, gentlemen. Will you let me hear the answer, please, Mr. Reporter.

(Answer read.)

Mr. HARRY YOCKEY. He has answered the question.

Mr. COWAN. I submit that his reference to closer relationship, should be stricken from the record, because, of course, the more they have in common, the closer the relationship; and that was not in the question.

Mr. EGGERS. The motion is denied.

Mr. CLARDY. I want to move to strike out the answer on a different ground—as having no relationship whatever to public convenience and necessity. The facts, as set out in the answer, of course, are broader than the question themselves, but you have ruled on that. Now I move to strike out the entire answer, as not having any relationship whatever to public convenience and necessity.

Mr. EGGERS. Well, we have ruled on that, Mr. Clardy.

Mr. HARRY YOCKEY. Yes.

Mr. EGGERS. The objection was on the same ground.

Mr. CLARDY. I did not so understand it, your Honor. If it was, however, very well.

Mr. EGGERS. That is, the wording might not have been identical, but we have allowed the question to stand for whatever value it may have.

Mr. CLARDY. All right.

100

By Mr. HARRY YOCKEY:

Q. Mr. Christie, is the Pennsylvania Railroad willing to employ a nonsubsidiary truck line, or truck lines, to perform this station-to-station service described by you over the seven new routes?

A. No, sir.

Q. Why not?

A. Well—

Mr. CLARDY. Now, just a moment. I object to the witness reciting any reason why. I do not think it is competent. As long as he has said he will not, beyond that the Commission has no interest, and we certainly have no interest, and I do not think it proves anything.

Mr. HARRY YOCKEY. Well, that is the same objection that counsel made just a little while ago here.

Mr. EGGERS. Will you let me hear the last two questions and answers again, please, Mr. Reporter.

(The record was read.)

Mr. EGGERS. And what was Mr. Clardy's objection, please?

(The objection was read.)

Mr. CLARDY. My point is this, your Honor, that the witness has just testified that they will not use the service of any other truck line. Now, how can it possibly prove public convenience and necessity to develop the reason or reasons why they will not? The witness has made the statement here that they will not do it, the flat statement that they will not do it. He 101 has already testified that they are going to do business with their own child, or none at all. Now, beyond that, why should we permit him to go afield, and bring in matters that cannot possibly have any connection with public convenience and necessity?

Mr. HARRY YOCKEY. If the Board please—

Mr. CLARDY. The stubborn attitude should not be gone into, any further than that.

Mr. HARRY YOCKEY. May I be heard?

Mr. EGGERS. Yes.

Mr. HARRY YOCKEY. If you want to be stubborn, Mr. Clardy, I have no objection in the world to your being stubborn, but I am not stubborn. I have asked a question of the witness here, to which he has answered "No." Now, in view of that answer, I submit that I have a right to inquire of the witness, "Why not?" and have him give the reason or the reasons why the Pennsylvania Railroad will not do that.

Mr. EGGERS. The question is this: Can you connect that up with public convenience and necessity?

Mr. HARRY YOCKEY. Why, certainly, your Honor. It is a part of public convenience and necessity.

Mr. EGGERS. In what way?

Mr. CLARDY. How?

Mr. HARRY YOCKEY. By reason of the fact that it shows why. Now these men here are all here because they want us to employ them. That is the reason they are here:

102 Mr. EGGERS. Perhaps they can testify to that, then.

Mr. HARRY YOCKEY. But they cannot testify as to why we want a subsidiary, and not an independent truck line. That is the question here—why do we want a subsidiary truck line, like The Willett Company, a subsidiary company, rather than an independent truck line?

Mr. EGGERS. I think the question should rather be: Does the public convenience and necessity require it?

Mr. HARRY YOCKEY. Well, your Honor, all of these questions go to public convenience and necessity.

Mr. MOBERLY. Oh, no. Your question goes only to the convenience of the Pennsylvania Railroad.

Mr. HARRY YOCKEY. Well, everything that is a convenience to the Pennsylvania Railroad, serves the public.

Mr. MOBERLY. You will have to prove that.

Mr. HARRY YOCKEY. That is the case, very definitely.

Mr. MOBERLY. Oh, no.

Mr. HARRY YOCKEY. It is the same thing, your Honor, that we have gone into in every case.

Mr. EGGERS. Just a moment, now, gentlemen; just a moment.

Mr. HARRY YOCKEY. Before you rule, your Honor, if the Board is going to rule adversely to me, I would like the opportunity to make an offer of proof.

Mr. EGGERS. Well, I will say to you, Mr. Yockey, that we are going to sustain the objection.

103 Mr. HARRY YOCKEY. Well, before you do that, your Honor, before you make your ruling, will you let the record show that I ask the privilege of making an offer of proof—

Mr. EGGERS. Certainly.

Mr. HARRY YOCKEY. And then, with that on the record, I will defer it until the time Mr. Christie comes back to the stand again.

Mr. EGGERS. I see no objection to that.

Mr. ANDERSON. That is agreeable.

Mr. EGGERS. With the understanding that you will be permitted to make your offer of proof, and then we will overrule it.

Mr. HARRY YOCKEY. I think we can save time; if I am not compelled to make the offer right now.

Mr. EGGERS. That is all right.

Mr. HARRY YOCKEY. I am not ready to do it right now, so we will save time by doing it when Mr. Christie comes back.

Mr. EGGERS. All right. The same understanding will apply, then.

Mr. HARRY YOCKEY. Yes.

Mr. EGGERS. That applied before.

Mr. HARRY YOCKEY. Yes.

Mr. EGGERS. Off the record.

(Discussion outside the record.)

Mr. EGGERS. Back on the record: Proceed.

104 By Mr. HARRY YOCKEY:

Q. What is the fact, Mr. Christie, as to whether or not you have made a study, on behalf of the Pennsylvania Railroad, regarding the effect on the movement of freight over the Pennsylvania Railroad, or certain portions of it, caused by the so-called "prior and subsequent movement by rail movement" clause?

Mr. CLARDY. Just a moment. To which I object. Now, that is not in the case, your Honor.

Mr. HARRY YOCKEY. Well, now—

Mr. EGGERS. Just a moment, gentlemen. Let me hear the question, please, Mr. Reporter.

(Question read.)

Mr. CLARDY. Now, may I state my position?

Mr. HARRY YOCKEY. Yes.

Mr. EGGERS. Go ahead.

Mr. CLARDY. I am objecting to the question on two broad grounds. The first one is that the subject matter dealt with is all of their relations with this trucking company, and not with the present relations specifically—in other words, the question is altogether too broad to start with; and in the second place, it is not material or competent to any issue involved here, because the insertion or the noninsertion of that so-called restriction is not proper in any of these cases as bearing on public convenience and necessity; and until there is some indication that the Commission is going to impose it, it could not possibly go into the case unless—and I now come back again to my original thesis—you are going to treat this applicant as a totally different species of carrier, as compared with all the rest of the protestants here, and all the rest of the motor carriers.

Mr. ANDERSON. I would like to be heard briefly on this matter, also, if the Board please.

Mr. EGGERS. Yes.

Mr. ANDERSON. Because that, I think, goes to a very important point in this case, as I see it. In this application they have come in here and asked for the authority they are asking for, covering a free and unrestricted movement between Fort Wayne, Indiana, and Mackinaw City, Michigan. They say nothing whatever in their application about prior and subsequent rail movement. They do not say that there is any such thing; and were it not for the previous cases, we would not know, and you would not know that there was any such thing. So it does not apply in this case at all. What they are asking for now, in this case, is one thing; and what they asked for elsewhere, as far as a prior and subsequent movement by rail is concerned, is something else. We have got to try this case on the basis of this case itself, and not on the basis of some other case, where they may have brought in a prior and subsequent movement by rail. The "prior and subsequent movement by rail" proposition does not have anything whatsoever to do with this case, because they have not asked for that.

Mr. EGGERS. It might simplify matters a little, Mr. Yockey, if you would state the purpose of the question.

Mr. HARRY YOCKEY. Certainly, your Honor. That question is only a qualifying question; and before I can ask this witness an-



other question, I have got to qualify him. The question so far has only got down to the matter of whether he has or whether he has not made a certain study. Now, as I say, before I can ask him anything further about that, I have got to qualify him.

Mr. CLARDY. I submit that it makes no difference whether he has made such a study or not.

Mr. HARRY YOCKEY. Now, just a moment, Mr. Clardy. I did not interrupt you, when you were talking.

Mr. CLARDY. All right. I did not mean to interrupt you, either.

Mr. HARRY YOCKEY. Now, then, this question is pertinent in this particular situation, for this reason: We have had a number of cases of this type, in securing all of our certificates enumerated in the exhibit that we have already introduced here; and in the grand father case, for instance, there was a "prior and subsequent movement by rail" clause inserted. There was no such evidence in the case, but the Commission inserted it, and it did so insert it in there

because of the fact that, in the Kansas City Southern case, 107 it had put that clause in there, and that was the first case in which the clause was put in. Now, then, the history of this situation is this, that when we came to our other cases, as enumerated here, the interim case, and then Sub No. 1, and Sub No. 2, without any evidence in the case, the Commission inserted the "prior and subsequent movement by rail" clause; and we had no opportunity to present any evidence as to whether we had done that, or whether we had not. The Commission inserted that same clause in probably one hundred cases. There were appeals taken in a large number of those cases to the Commission, and the Commission held, in the Seaboard Air Line case, the Louisville & Nashville case, and other similar cases, within the last year, that the railroad has the right; the Commission held that if the clause went in—and in this case we are substituting the key-point restriction, in place of the "prior and subsequent movement by rail" restriction—they had the right later to come in and ask for its removal, if it proved to be detrimental to them. Now, then, when we come to Sub Nos. 3, 4, and 5, that is, MC-2815, Sub Nos. 3, 4, and 5, we were for the first time confronted, just like we are here, with this same situation in an actual case that was being tried. The question came up right after the Seaboard Air Line case, and the Examiner asked us at that time as to what we cared to do regarding the matter, if we would put some evidence into the record with respect to whether or not we wanted the "prior and subse-

108 quent movement by rail" clause in there. So we are doing that in this case. You want evidence as to whether or not that clause should go in here and instead of letting the case come to a hearing, and getting an order, and then trying to put a restriction of that sort in there, we want some evidence in this record,

showing that we do not want that clause, and why we do not want it.

Mr. EGGERS. All right.

Mr. HARRY YOCKEY. Rather than letting it go to a later date, and then trying to do something with it.

Mr. EGGERS. Now, just a moment, gentlemen. The objection to the question is overruled.

Mr. CLARDY. Now, Mr. Reporter, will you go back and read the question. I think, your Honor, you have overlooked a part of my objection, and that is, that the question is too broad, and that it covers the past as well as the present.

Mr. EGGERS. It is only a preliminary question, as I understand it, and we can restrict it to the situation here.

(Question read.)

Mr. EGGERS. You may answer.

A. I have.

By Mr. HARRY YOCKEY:

Q. And did that include movements of freight by rail-truck operations of the Pennsylvania Railroad and the Willett Company of Indiana—

A. Yes.

Q. Over all of the routes now in operation?

109 A. Yes, sir.

Q. Now, Mr. Christie, have you, in addition to making a study of the old routes, studied the operations of the Pennsylvania Railroad with reference to the seven new routes, as to the effect that rail-truck operation will have, as between the two types of service, as to whether the Pennsylvania Railroad desires this clause inserted in any certificate covering the seven new routes?

A. I have made such a study; yes, sir; and the Pennsylvania Railroad does not want the "prior and subsequent rail haul" restriction in this certificate—if any.

Q. The Pennsylvania Railroad does not desire that clause inserted?

A. No.

Q. Well, now, then, will you give your reasons—or, the reason why they do not want that?

Mr. CLARDY. May the record show, your Honor, that my original objection is renewed.

Mr. EGGERS. Yes; the record will show that you are renewing your objection, and the objection is overruled, and an exception noted.

A. Yes.

By Mr. HARRY YOCKEY:

Q. Go ahead.

A. For the reason that it will cause the Pennsylvania Railroad to handle freight unnecessarily, by loading it into cars, in order

110 that it may receive a prior movement by rail. There will be an additional expense involved to the Pennsylvania Railroad, by reason of having to load such freight in such cars.

Q. Now, is there any other reason, or rather any other reasons, why the Pennsylvania Railroad does not want that clause inserted?

A. Yes, sir, because it will cause additional cars to be loaded; in some instances it will cause The Willett Company to haul freight longer distances than is required; and it will delay the movement of the freight to the patrons of the railroad.

Q. Well, now, then, how will such a restriction be detrimental—well, you have testified to how it will affect the railroad.

A. I believe so.

Q. Now, Mr. Christie, is the Pennsylvania Railroad willing to have a key-point restriction inserted in the certificate in this case, if the "prior and subsequent rail movement" clause is omitted?

A. Yes.

Q. Now, have you made a study of the key-point situation, as it will affect these seven new routes described in this application?

A. Yes.

Q. Well, now, then, I will ask you to look at the map which has been introduced in evidence here, for reference, as Applicant's Exhibit No. 2. Let us take the cities there, as they appear on that map. Does the railroad, the Pennsylvania Railroad, desire  
111 to have Fort Wayne, Indiana, made a key-point?

A. Yes.

Q. Or is it willing, I might say, to have Fort Wayne, made a key-point..

A. Yes, sir.

Q. That is, if the "prior and subsequent rail movement" clause is omitted.

A. Yes, sir.

Q. How about Grand Rapids, Michigan?

A. The same.

Q. You are willing to have that as a key point, are you?

A. Yes, sir.

Q. Well, now, then, taking the cities as we go north, as shown on the map, on the railroad north of Grand Rapids, I will just name those cities consecutively, and you may give your answer, yes or no, as to whether or not you desire to have each of those points as a key point.

Mr. EGGERS. Well, now, Mr. Yockey, has there not been some evidence introduced in the record previous to this time, to the effect that Fort Wayne, Indiana, and Grand Rapids, Michigan, are the only two points, key points, that are desired?

Mr. HARRY YOCKEY. That was my statement, your Honor.

Mr. EGGERS. Oh.

Mr. HARRY YOCKEY. I testified to that, if we may call it that, but the witness has not done so as yet.

112 Exam. HARRISON. Mr. Yockey, why not ask the witness to state just what points he desires to be key points, rather than have him go through a long list, and name every point shown here, just saying "No" to every one except the points that he wants? I think it will save a lot of time if you will do that.

Mr. HARRY YOCKEY. That will be quite satisfactory, your Honor. I thought it would only take a moment. But I can ask him one blanket question, if you would rather have me do it that way.

Mr. EGERS. I think that would save time.

Mr. HARRY YOCKEY. All right.

By Mr. HARRY YOCKEY:

Q. Mr. Christie, are there any other cities or towns covered by these seven routes, that the Pennsylvania Railroad desires to have made key points?

A. No.

By Mr. EGERS:

Q. That is, other than Fort Wayne and Grand Rapids, do you mean?

A. Right.

By Mr. HARRY YOCKEY:

Q. Well, now, then, what are your reasons for designating Fort Wayne and Grand Rapids as key points, or for your being willing to have them made key points?

A. We have sufficient train service between those two points, and the volume of traffic is such that we would not want to haul it by truck, and we are able to give the patrons of the railroad a service, an expedited service, by handling the freight  
113 by rail.

Mr. BARKELL. Before you go any further, Mr. Yockey, I would like to interrupt with a question right here.

Mr. HARRY YOCKEY. Yes.

By Mr. BARKELL:

Q. How about a less-than-carload shipment to Grand Rapids, Mr. Christie?

A. From where?

Q. Fort Wayne.

A. It will be handled by rail.

Q. By rail?

A. Yes, sir.

Q. But will that not hold up the movement of your other cars, if you handle less-than-carload shipments out of Fort Wayne that way?

A. No, sir, it will not, because we will make cars enough, one, or possibly two or three cars per day at Fort Wayne, of less-than-carload freight, for Grand Rapids.

Q. No; I am talking about a shipment now, coming in over the railroad from New York, say, to Fort Wayne, a less-than-carload shipment, destined to Grand Rapids.

A. Well, that shipment would be billed into Grand Rapids, and would be moved in the car from New York to Grand Rapids direct.

By Mr. CLARDY:

Q. Would that be an instance where it would have to go over your dock at Fort Wayne?

A. No.

114 Q. All less than carload freight, then, for Grand Rapids, goes direct through from New York, does it?

A. Less than carload freight from New York to Grand Rapids is loaded direct in a car and moved from New York to Grand Rapids.

By Mr. EGGERS:

Q. Well, do not take New York, for example; but take some other place where you would not have so much business.

A. Well, there are certain points from which the freight would come into Grand Rapids, and be transferred—

Q. Where?

A. Or rather, I mean to say, would come into Fort Wayne, and be transferred to Grand Rapids. There are a number of instances where cars are made from distant points to Grand Rapids, but from any point that does not load a car to Grand Rapids, the freight would be loaded into a car at Fort Wayne for Grand Rapids.

Q. And will it be delayed 24 hours?

A. Well, it would not be delayed; no, sir; for this reason, that if we would send a truck out of Grand Rapids—or rather, I mean to say, out of Fort Wayne in the morning, it would not be at Grand Rapids at night, so that we can give that same service by car that we can by truck.

Q. But does not the freight stay at Fort Wayne 24 hours?

A. Yes.

By HARRY YOCKEY:

115 Q. It will not, though, if it comes in a pool carload, a car that is destined from New York for delivery at Grand Rapids.

A. No.

By Mr. BARKELL:

Q. But we are talking now about less than carload freight.



A. Well, a car of less than carload freight, a pool car, from New York, would go direct to Grand Rapids.

Q. All right. Now, my question was intended to include a transfer at Fort Wayne.

A. Yes, sir; a shipment from a point that does not make a car to Grand Rapids, will be loaded on—Fort Wayne, if possible, or some other point—just a moment. I have got that wrong. A shipment from a distant point will be loaded on a transfer point other than Fort Wayne if possible, and will be loaded direct to Grand Rapids. Now, in the case of points where it is not possible to make such a transfer—

By Mr. EGGERS:

Q. That is what we would like to know about.

A. It will be loaded on Fort Wayne, and then transferred into a car for Grand Rapids.

By Mr. ANDERSON:

Q. It will be transferred at Fort Wayne, do you mean?

A. Yes, sir; transferred at Fort Wayne for Grand Rapids.

By Mr. EGGERS:

Q. Then it will be delayed there the same 24 hours that you spoke of a while ago, will it not?

A. It will receive the same service as it is receiving at the present time, because it takes a day to transfer the shipment.

116

By Mr. CLARDY:

Q. In other words, then, your truck service and your rail service on that kind of a movement between Fort Wayne and Grand Rapids, would be just about the same in point of time; is that correct?

Mr. HARRY YOCKEY. No; they will not be, because the truck service will be better. I do not think you understand what he is talking about.

Mr. CLARDY. I mean, the average time, as between rail and truck.

Mr. HARRY YOCKEY. No.

The WITNESS. We do not expect to handle Grand Rapids by truck.

By Mr. CLARDY:

Q. I know that, Witness, but what I had in mind was just to see if I correctly understood your answer. If a movement comes into Fort Wayne, less than carload, from some point beyond Fort Wayne, destined to Grand Rapids, it will be handled by rail under all circumstances, regardless of what happens to this application, as I understand it. Now, the time that would be consumed in

making the delivery to Grand Rapids, where a transfer at Fort Wayne is involved, when it moves by rail, would be just as fast as if you should try to ship that freight by way of this proposed truck service, assuming that it is authorized?

Mr. HARRY YOCKEY. Well, now, I want to object—

By Mr. CLARDY:

Q. That is right, is it not?

117 Mr. EGGERS. Just a moment.

Mr. HARRY YOCKEY. To any question of that sort.

Mr. CLARDY. I think that is what he said, and I just wanted to be sure that I understood him.

Mr. EGGERS. Yes, I think that is correct. However, just to clear it up, if I may state it another way.

Mr. CLARDY. Yes.

By Mr. EGGERS:

Q. Would the situation be this, Mr. Christie, that in the event this application is granted, you will not be giving any better service to Grand Rapids through Fort Wayne than you are giving now? Is that correct, or not?

A. That is right, yes, sir; because it will not be our intention to handle Grand Rapids by truck.

Mr. EGGERS. Does that clear it up?

Mr. CLARDY. I think so; yes; thank you.

By Mr. BARKELL:

Q. That same thing would be true of ; two points that you might select on the route; would it not?

A. Well, now, I don't know about that.

Mr. ANDERSON. Well, it would have to be.

Mr. HARRY YOCKEY. Well, that would depend, of course, on what we are going to establish.

A. I am going to have to have a specific example before I will be able to answer a question like that.

By Mr. BARKELL:

Q. Well, supposing we say Cadillac, or Mackinaw City.

118 A. Well, we do not expect to handle Kalamazoo tonnage on these trucks; only local tonnage. There is enough tonnage in Kalamazoo so that we can use the cars.

Q. I might say, Mr. Christie, that the reason why we are questioning you along this line is because in your Exhibit No. 6 you show an actual saving of time in delivery to these different places.

A. But I do not, to Kalamazoo. You will not find Kalamazoo on there, and you will not find any shipment to Grand Rapids, either.

Q. I see one here to Grand Rapids.

A. To Grand Rapids?

Q. Yes.

A. I think not.

Mr. EGGERS. That is Big Rapids.

The WITNESS. Yes, Big Rapids.

Mr. BARKELL. That is correct.

The WITNESS. Our trucking service is practically confined to the intermediate stations.

By Mr. BARKELL:

Q. Then it is the small towns, the small intermediate towns, that are going to get the additional service; is that correct?

A. Yes, sir. We expect to give these small intermediate towns service that will be more nearly on a par with that at the larger stations.

119 Mr. BARKELL. All right, thank you. I think that answers the question as far as I am concerned.

By Examiner HARRISON:

Q. Referring again, for just a moment now, Mr. Christie, to the operation between Fort Wayne and Grand Rapids: The less than carload shipments will be placed in a car, and the car will be transported from Fort Wayne to Grand Rapids without any stops for unloading or loading at intermediate points; is that correct?

A. Yes, sir—that is, a through car.

Q. Supposing a shipment were to originate at Kendallville, Indiana—is that a point on the Pennsylvania Railroad?

A. Yes.

Q. Destined, say, to Muskegon, Michigan. How would that shipment be handled?

A. Well, we would truck that shipment to Kalamazoo, where we would have a connecting truck for Grand Rapids, and that truck would go over to Muskegon.

Q. That would be truck service all the way through; would it?

A. In that case it would be truck service all the way through; yes, sir; and that would be affected by this "prior and subsequent rail haul" proposition.

By Mr. BARKELL:

Q. In other words, Mr. Christie, you intend to apply for intra-state rights in Michigan; do you not?

A. Yes, sir.

Mr. EGGERS. Let me also ask one question right here, while  
120 we are on the subject.

By Mr. EGGERS:

Q. Supposing, Mr. Christie, that you have a shipment from Fort Wayne, or from some point outside of Fort Wayne, that is going to be interchanged at Fort Wayne, destined to a point north of Grand Rapids say, Cedar Springs—is that on the Pennsylvania Railroad?

A. Yes, sir.

Q. All right. How would a shipment of that sort be handled—that is, how would it move?

A. A shipment from Fort Wayne, Indiana, to Cedar Springs, Michigan, received on Monday, say, would be loaded into a car on Monday at Fort Wayne, and would be in Grand Rapids Tuesday morning.

Q. How would it move?

A. By rail.

Q. All right.

A. It would be transferred from Fort Wayne to Grand Rapids by rail, and would be there Tuesday morning, and be trucked out to Cedar Springs that same Tuesday morning.

Q. Just a moment, now.

A. We can handle it in the opposite direction, too.

Mr. EGGERS Off the record.

(Discussion outside the record.)

Mr. EGGERS. Back on the record. You may proceed, Mr. Yockey.

121 Mr. HARRY YOCKEY. Do your Honors have any further questions of the witness at this time?

Mr. EGGERS. I think at this time you should be permitted to proceed with your witness.

Mr. HARRY YOCKEY. Very well.

By Mr. HARRY YOCKEY:

Q. Did you finish giving the Board all of your reasons, Mr. Christie—I do not recall whether you did or not; I do not know whether we got off the track, or not—as to why you want these points that have been mentioned, as key points?

A. (No answer.)

Q. For example, did you say anything regarding car classification to key points?

A. Well, now, I do not recall just exactly what was said about that. I think I did, though. Will you go back and read that, please?

Q. Well, to save time, let me ask you the question: What does the classification of cars have to do with the key points?

A. Where there is a sufficient volume of freight, and we have car classification between those points, we can give the service by

rail, and we do not desire to haul it by truck. Between Fort Wayne and Grand Rapids there is a sufficient volume of tonnage to justify cars of less than carload freight, and we can give the service by rail.

Q. Well, now, Mr. Christie, you answered a question a moment ago here regarding the movement of freight that was loaded on a Monday morning. In this particular illustration, would there be any difference if it was loaded on Tuesday?

A. (No answer.)

Q. Was that a triweekly illustration, in other words?

A. Oh, no. I just simply used that—

Q. As an illustration?

A. To illustrate the movement.

Q. Well, now, then, why does not the Pennsylvania Railroad desire these cities that I asked you about, as key points, that you say you do not desire as key points?

A. How was that again?

Mr. HARRY YOCKEY. Strike out the question, and let me put it a different way.

By Mr. HARRY YOCKEY:

Q. What factors are considered by you, or should be considered, in determining whether a point should or should not be a key point?

A. The factors of car classification on the Pennsylvania Railroad; the freight train service on the Pennsylvania Railroad; the volume of traffic between the points; the points of origin and destination of the traffic; and the service by truck—those items should all be taken into consideration.

Q. How about the expeditious handling of the freight?

Exam. HARRISON. Would not the item of volume be the principal factor there, Mr. Christie?

123 The WITNESS. Well, the volume, and the train service. I would say would be the principal factors.

Exam. HARRISON. Pardon the interruption.

Mr. HARRY YOCKEY. That is all right.

A. What was your question?

By Mr. HARRY YOCKEY:

Q. Did you mention the expeditious handling of the freight?

A. I do not recall whether I mentioned it or not, but that would be one of the factors; yes, sir.

Q. Does that have any effect?

A. Well, by the expeditious handling of the freight—or, the train service, certainly we could expedite the movement of the freight.

Q. All right. Now, then, Mr. Christie, are all of these shipments to which you have referred, and which you have described



herein as affecting your consideration of key points, as explained by you, shipments that are to be transported in interstate commerce?

A. Yes.

Q. You have not taken into account any intrastate shipments, have you?

A. No.

Q. And are all of the operations which you have described for the purpose of transporting the freight of the Pennsylvania Railroad?

124 A. Yes.

Q. In common carrier service?

A. Yes.

Q. As defined by the Commission?

A. Yes, sir.

Q. And the shipments are all of commodities generally; is that right?

A. Yes, sir.

Q. According to the tariffs of the Pennsylvania Railroad?

A. Yes.

Mr. HARRY YOCKEY. Now, if the Board please, with the limitations that I have indicated earlier in the proceeding, we are through I believe with Mr. Christie on direct—except for disposing of those two matters.

Mr. EGGERS. Very well.

Mr. HARRY YOCKEY. Therefore, these gentlemen may cross-examine him at this time, if they care to do so, or if they desire to defer their cross-examination, as I believe Mr. Clardy, at least, indicated, why, that is perfectly agreeable also.

Mr. CLARDY. I would very much prefer to defer my cross-examination until Mr. Yockey has completely finished his direct examination, because I want to go at it all at one time; and furthermore; what I have to ask the witness will depend somewhat on what your rulings are, on the two questions that have been left open.

125 Mr. ANDERSON. I feel the same way about it, your

Honors. We would like to have Mr. Yockey finish up with the witness on direct before we begin our cross-examination.

Mr. HARRY YOCKEY. Well, as I say, it is perfectly agreeable to me, one way or the other; whatever the Board and the Commission want to do, is all right with us.

Mr. EGGERS. Now just a moment, gentlemen. Does anybody else want to cross-examine this witness at this time? (No response.) I hear no response.

Mr. HARRY YOCKEY. I think myself it would be better if it were all done at one time.

Mr. EGGERS. All right.

Mr. CLARDY. That seems to be the general attitude of counsel for protestants, on the matter.

Mr. EGGERS. All right, gentlemen.

The WITNESS. Are you through with me, then?

Mr. EGGERS. Just a moment. There may still be a few further questions from the bench.

Mr. BARKELL. I have nothing.

Exam. HARRISON. I have no questions just now.

Mr. EGGERS. I have just one or two further questions that I would like to ask you, Mr. Christie.

By Mr. EGGERS:

Q. In establishing these key points, does not the sum and substance of the elements that establish the key points, depend entirely upon the volume of freight?

126 A. I do not just understand that question.

Q. I say, in the establishing of your key-points, does it not in the main depend entirely upon the volume of freight?

A. The principal elements, as I believe I stated a moment ago here, are the volume of freight and the train service that we have between the two points; yes, sir.

Q. Well, now, supposing that back in the good old days, when the railroads had more freight than they could handle—there was a time like that, was there not?

A. No, sir.

Q. Well, for the purpose of my question, let us just suppose that there was such a situation.

A. All right.

Q. Maybe there is a time like that coming.

A. All right.

Q. Would there be, then, other key-points that you could establish, and that you would be willing to have in your certificate?

A. Well, that is altogether possible, I would say, yes, sir; that is, it is altogether possible that if the volume of freight was great enough to justify cars being made from various points to other points, then I would say that it might be necessary to establish other key-points.

Q. Well, now, supposing for example, that you had plenty of freight into and out of Kalamazoo, and the same situation applied to Muskegan, and Cadillac, Traverse City and  
127 Mackinaw City.

A. Well—

Q. Would your answers be the same?

A. No, sir; it would not be that way.

Q. Why not?

A. For the reason that when you have a shipment—well, let me put it this way: Supposing you have a shipment from Kala-

mazoo, going to Muskegan, Michigan, or up in there somewhere; and you want to truck that particular freight. Then if you have restricted yourself to key-points up there, so that you have to load the freight just that way, out of route, you will delay it accordingly.

Q. Not if you have sufficient to justify a pool car—

A. Well—

Q. Or something of that sort.

A. If you had sufficient freight from Kalamazoo—or rather, I mean to say, from Kendallville, Indiana to Grand Rapids, that would be one thing, but I do not suppose there would ever be a time on the railroad when that would occur.

Q. Well, now, Mr. Christie, to shorten it, does it not just boil itself down to the fact that it is primarily a matter of volume, or at least, volume is the big factor?

A. Volume and service are the big things, the two big factors in the proposition, yes, sir.

By Mr. BARKELL:

128 Q. If they have the volume, they give the service; is that it?

A. Well, if you had a sufficient volume of less than carload freight, and a sufficient volume of carload freight, then you would get the service; yes, sir.

Mr. EGGERS: I have no further questions. Are there any further questions of the witness at this time?

Mr. HARRY YOCKEY. I have nothing further.

Mr. EGGERS. If not, you may be excused, subject to recall.

(Witness excused.)

Mr. EGGERS. Are you ready to proceed with your next witness, Mr. Yockey?

Mr. HARRY YOCKEY. Yes.

Mr. EGGERS. Call him, please.

Mr. HARRY YOCKEY. Mr. Symes.

J. M. SYMES was sworn and testified as follows:

Direct examination by Mr. HARRY YOCKEY:

Q. Will you state your name?

A. J. M. Symes.

Q. Where do you live?

A. Chicago, Illinois.

Q. What is your connection, if any, with the Pennsylvania Railroad?

A. General manager, western region.

Q. What does the western region comprise?

129 A. Generally, the territory west of Cleveland and Columbus, Ohio—not including Cleveland; and Cincinnati.

Q. And the territory that is involved in the application now on hearing, is included within that western region, is it?

A. Yes, sir.

Q. Now, Mr. Symes, how long have you been with the Pennsylvania Railroad—or rather, strike that out. What was your employment prior to the time that you went with the Pennsylvania Railroad?

130 A. Immediately prior to the last three years?

Q. Yes.

A. I was vice president of the Association of American Railroads, in Washington, D. C.

Q. In what capacity again, please?

A. Vice president.

Q. And what was your employment prior to that?

A. Well, perhaps it would save time, and make the record a little more connected, if I would go back and start at the beginning.

Q. Yes.

A. In 1916 I entered the employ of The Pennsylvania Railroad as a clerk on the Pittsburgh Division, at Pittsburgh, Pennsylvania, and I occupied various clerical capacities until 1920, when I was transferred to Cleveland, Ohio, as freight movement director. From 1920 until 1923 I was freight movement director at that location. From 1923 to 1927 I was freight movement director of the Central region, located in Pittsburgh, Pennsylvania. In 1927 and 1928 I was chief clerk to the general manager of the western region at Chicago. In 1928 and 1929 I was superintendent of passenger transportation, Western region, at Chicago. From 1929 to 1934, I was superintendent of passenger transportation of the Eastern region, in Philadelphia, Pennsylvania. In 1934 and 1935,

131 I was chief of freight transportation for The Pennsylvania Railroad System, located in Philadelphia. From the latter part of 1935 until February 1, 1939, I was vice president, Operations and Maintenance Department, of the Association of American Railroads, in Washington, as I stated; and from February 1, 1939, to the present, general manager of the Western region, Pennsylvania Railroad.

Q. As such manager of the western region for The Pennsylvania Railroad, do you have entire charge of the operations of the railroad?

A. I have jurisdiction and charge over the operations and maintenance of the Western region, as well as setting up service, both freight and passenger, for the patrons of The Pennsylvania Railroad.

Q. Are you connected with The Willett Company of Indiana, Inc., the applicant in this case?

A. I am.

Q. In what capacity?

A. Director.

Q. Now, then, Mr. Witness, are you acquainted with the transaction whereby The Pennsylvania Railroad has entered into a contract—or rather, has there been any transaction, first, whereby The Pennsylvania Railroad Company has entered into a contract with The Willett Company, in anticipation of this particular service in Michigan?

A. Yes.

Q. And has a contract been executed between the two companies?

132 A. Yes.

Q. Who signed that contract on behalf of the railroad?

A. I did.

Q. And who, on behalf of The Willett Company?

A. Mr. McARDLE.

Q. Why does The Pennsylvania Railroad desire The Willett Company to perform this service?

A. Because from our experience, they are perfectly capable of performing a satisfactory service for the handling of traffic, such as is contemplated in this case.

Q. And it is not your desire to have an independent truck line perform this service in Michigan for you, is it?

A. No.

Mr. CLARDY. Now, just a moment. I interpose the same objection as before, and I move that the answer be stricken out; and I assume the record may show the same ruling, and an exception. I simply want the objection recorded.

Mr. BARKELL. That same question was answered in some detail by the preceding witness, was it not?

Mr. HARRY YOCKEY. Well, can we do this, your Honor: The answer of this witness will be exactly the same as that of Mr. Christie, if we are able to get it into the record. Can we stipulate, counsel, that the same answer may go in, instead of keeping Mr. Symes here over tomorrow, if your ruling is that way?

In other words, if you rule that you will permit it to be admitted, as far as Mr. Christie is concerned, then it can be likewise admitted as far as Mr. Symes is concerned.

Mr. CLARDY. Well, I would assume, of course, that this witness is not going to contradict the other witness.

Mr. HARRY YOCKEY. That is correct. As I said before, the testimony will be the same.

Mr. CLARDY. And handling it two witnesses at a time will not make it any worse than if we handle it by one witness at a time.

Mr. HARRY YOCKEY. Oh, no.

Mr. CLARDY. Or any better, for that matter.

Mr. HARRY YOCKEY. No.



Mr. EGGERS. Just a moment, gentlemen. The objection to the pending question will be overruled. I think the witness has already answered the question anyway.

By Mr. HARRY YOCKEY:

Q. What are your reasons?

Mr. CLARDY. Well, now, that is the question that I thought I was objecting to, as to what his reasons are.

Mr. HARRY YOCKEY. I had not asked that question as yet.

Mr. EGGERS. No.

Mr. BARKELL. Well, I take it, it would be the same situation there, that we just got through discussing.

Mr. CLARDY. You are going into that tomorrow, as I understand it.

Mr. HARRY YOCKEY. Yes.

134 Mr. CLARDY. Well; then, may we not have a gentlemen's agreement here, if that is agreeable to the Joint Board, that we will let the answer that goes in tomorrow, if it does go in, apply to and cover the testimony of both of them, both of the witnesses?

Mr. HARRY YOCKEY. Well, now—

Mr. EGGERS. Why, I think that is all-right. Will you withdraw that question, then, or do you want us to rule on it?

Mr. HARRY YOCKEY. I do not want to withdraw the question, no, your Honor; but I think we will be willing to agree that the answer of this witness will be the same as that of Mr. Christie, if Mr. Christie is permitted tomorrow to answer. I understand Mr. Clardy is agreeable to that.

Mr. CLARDY. Yes. It would be strange, of course, if it were not the same.

Mr. HARRY YOCKEY. Yes.

Mr. EGGERS. Is that agreeable to you gentlemen?

Mr. HARRY YOCKEY. I would ask your Honor that you withhold your ruling on this until we conclude with Mr. Christie tomorrow, after we have argued the legal end of it.

Mr. EGGERS. All right.

Mr. HARRY YOCKEY. I understand Mr. Clardy is agreeable to that.

Mr. CLARDY. I am agreeable to the Board withholding its ruling, as far as this witness is concerned, until it has  
135 passed on the other matter tomorrow.

Mr. EGGERS. All right.

Mr. HARRY YOCKEY. That will just save Mr. Symes some trouble. He is very busy. He is general manager of the Western region of The Pennsylvania Railroad, as he has testified, and he cannot come back tomorrow; and his answer, as I say, would be the same as that of the other witness, Mr. Christie.

Mr. CLARDY. Oh, if Mr. Symes cannot be here tomorrow, that is all right.

Mr. HARRY YOCKEY. That seems to be agreeable, your Honor.

Mr. EGGERS. Well, now, just to be sure that we have the record straight: there has been an objection raised to a question, and I think in order to keep the record clear, we are going to sustain that objection, and not hold the ruling in abeyance; with the understanding, however, that you gentlemen have agreed that the answer to the question that was propounded to Mr. Christie, which was almost identical with this question, if it be allowed to go into the record tomorrow, after a ruling, will be the same or substantially the same, as the answer which this witness would make to the question which has been asked him.

Mr. CLARDY. Yes.

Mr. HARRY YOCKEY. That is right.

Mr. EGGERS. With that understanding, we will sustain the objection.

136 Mr. CLARDY. All right.

By Mr. HARRY YOCKEY:

Q. Now, Mr. Symes, will The Pennsylvania Railroad use the service of The Willett Company over these seven routes if a certificate is granted?

A. Yes.

Q. And the contract that you have covers these routes, does it?

A. Yes.

Q. The seven routes.

A. Yes.

Q. Now, what is the fact as to whether or not The Willett Company of Indiana, Incorporated, is a subsidiary of The Pennsylvania Railroad?

Mr. ANDERSON. To which we object, on the ground that it has already been answered.

Mr. EGGERS. I think so.

Mr. HARRY YOCKEY. No, sir; that has not been answered by anybody. I referred to it in my opening statement, but there has been no testimony to that effect as yet.

Mr. EGGERS. Did not Mr. Christie testify to that?

Mr. HARRY YOCKEY. No.

Mr. EGGERS. All right. The witness may answer.

A. It is.

By Mr. HARRY YOCKEY:

Q. What is the process by which—or rather, will you explain to the Joint Board how it is a subsidiary?

137 A. Why, the stock is held through the American Contract & Trust Company.

Q. Is all of the stock of The Willett Company of Indiana, Incorporated, owned and held by the American Contract & Trust Company of Philadelphia, Pennsylvania?

A. Yes, sir.

Q. And who owns all of the stock of the American Contract & Trust Company of Philadelphia?

A. The Pennsylvania Railroad.

Q. So that by that method, it is a subsidiary?

A. Yes, sir.

Mr. CLARDY. Can we agree, then, for the purpose of the act, that The Pennsylvania Railroad owns and controls the applicant company?

Mr. HARRY YOCKEY. Well, you can put it any way you please. It is a subsidiary of the railroad company, yes; but not in the sense that it controls its actions, its individual actions, no.

Mr. CLARDY. Well, I will ask some questions of the witness later on about that, then.

Mr. HARRY YOCKEY. That is all right. You may ask him anything you like on cross-examination.

Mr. CLARDY. Thank you.

Mr. HARRY YOCKEY. That is all.

Mr. EGGERS. Cross-examine.

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Cross-examination by Mr. ANDERSON:

Q. Mr. Symes, do you set up the schedules of The Willett Company,—and when I say “you,” I mean, The Pennsylvania Railroad?

A. Yes, sir; that is, we suggest the schedules that we feel will provide the necessary service.

Q. So that I take it, then, you regard The Willett Company as merely an arm, or an agency of The Pennsylvania Railroad Company, do you?

A. (No answer.)

Q. You set up their schedules, or suggest them, as you say, and they are a wholly-owned subsidiary, and they do as directed by The Pennsylvania Railroad management; that is correct, is it not?

A. Not entirely, no.

Q. All right.

A. They have a separate management, and function as such.

Q. Oh, yes, nominally they have a separate management, but how is it that you do not control them in any other respect?

A. Well, because they have a vice president and general manager in charge of their operations.

Q. Who is he?

A. Mr. J. P. McArdle.

Q. McArdle?

A. Yes.

Q. The stockholders of The Willett Company are all  
139 connected with this Contract & Trust Company, are they  
not?

A. Well, the Contract & Trust Company is the stockholder.

Q. Yes. They are the same, identically the same.

A. Yes.

Q. And then all of the stock is owned by The Pennsylvania  
Railroad, through the—

A. American Contract & Trust.

Q. Yes.

A. Right.

MR. EGGERS. Mr. Witness, you have been answering in a rather  
low tone, and some of the questions you answered by merely  
nodding your head, which I assume the Reporter took to mean  
"Yes." Be sure and answer each question out loud, for the record.  
If you just move your head, the Reporter may not get it.

The WITNESS. I am sorry.

By Mr. ANDERSON:

Q. Where was this application prepared?

A. (No answer.)

Q. That is, in whose office, if you know?

A. The application for this certificate?

Q. Yes; the application that is on hearing here at the present  
moment, nominally of The Willett Company.

A. I cannot answer that question.

Q. You do not know?

A. It was filed by The Willett Company.

140 Q. Yes; we know that it was filed by The Willett Com-  
pany, at least in the name of The Willett Company.

A. Right.

Q. But you do not know where it was prepared?

A. No.

Q. Do you know where any of these exhibits were prepared?

A. The exhibits—

MR. HARRY YOCKEY. Oh, now, I want to object to this if your  
Honors please. We did not go into the matter of any of the ex-  
hibits with this witness on direct examination.

MR. ANDERSON. I will remind your Honors that the preceding  
witness, Mr. Christie, said that the map department of The Penn-  
sylvania Railroad Company had prepared the first two exhibits.

MR. EGGERS. Yes, there was some evidence that the map depart-  
ment of The Pennsylvania Railroad, I believe, or some department  
of the railroad, had something to do with the preparation of one  
or two of the exhibits.

Mr. HARRY YOCKEY. But I had not asked this witness anything about that, your Honor.

Mr. EGGERS. I think that is true.

Mr. HARRY YOCKEY. That matter was not gone into at all on the direct examination of this witness.

Mr. ANDERSON. All right. Then we will got at it another way.

The fact is, of course, that you have not asked this witness very much of anything.

Mr. HARRY YOCKEY. Well, whether he was asked much or little, you should cross-examine him on his direct testimony. You probably will not have very much to ask him.

Mr. ANDERSON. No; I probably will not, because I do not think that his testimony amounted to anything. I am through, as far as I am concerned.

Mr. CLARDY. Well, I have a question or two.

By Mr. CLARDY:

Q. Witness, you would not seriously want the Commission to believe that The Pennsylvania Railroad Company does not actually control the actions of its subsidiary corporation, The Willett Company, would you?

A. I would; yes, sir. I would say that there is cooperation between the two companies; yes; but as to control, no, sir. There is cooperation, with respect to the furnishing of adequate service.

Q. Do you know of one single instance, in all of your time as a directory of The Willett Company, when the wishes of the parent company with respect to the carrying on, or the conduct of the business by The Willett Company, have been disregarded by The Willett Company? If so, will you please tell us when it was.

A. No; I do not.

Q. So, as a matter of fact, then, whether there is any compulsion or not, from the practical standpoint, all of the wishes, whims, and desires of The Pennsylvania Railroad Company that are expressed or conveyed to The Willett Company, result in the action desired by The Pennsylvania Railroad Company—

Mr. HARRY YOCKEY. Just a moment.

By Mr. CLARDY:

Q. Is that not right?

Mr. HARRY YOCKEY. Now, just a moment. There is nothing in this record about any whims, or wishes, or desires, or anything of that sort.

Mr. CLARDY. Yes there is. I just put that in.

Mr. HARRY YOCKEY. I submit that the question is not proper.

Mr. EGGERS. Will you let me hear the question again, please, Mr. Reporter,



(Question read.)

Mr. EGGERS. The objection is overruled.

By Mr. CLARDY:

Q. Do you understand my question, Witness?

A. Let me hear it again.

Mr. CLARDY. Read it once more to him, please, Mr. Reporter.

(Question again read.)

A. I don't know what you mean by "wishes, whims, and desires", and so forth.

By Mr. CLARDY:

Q. Well, I mean by that, anything in the way of a request or a suggestion, or the expression of a desire.

A. I would say that the management of The Willett  
143 Company operates the affairs of The Willett Company, as

I stated before, in cooperation with the railroad, in connection with service matters, and things of that kind.

Mr. CLARDY. Well, now, that does not answer the question at all. Will you read the question once more to the witness, please, Mr. Reporter, and I would like to have the witness answer the question yes or no.

(Question again read.)

Mr. CLARDY. I may say, Witness, that I can stay here just as long as you can, and you will be here into tomorrow if you do not answer my questions directly.

Mr. HARRY YOCKEY. Well, now, if the Board please, I want to move that that last statement of Mr. Clardy be stricken from the record. It is not proper for counsel to make that sort of a statement to a witness.

Mr. EGGERS. Which statement do you mean, Mr. Yockey; the very last statement?

Mr. HARRY YOCKEY. Yes, your Honor, about Mr. Symes being here over into tomorrow.

Mr. CLARDY. I do not think it should be stricken, your Honor, because I think it was very apparent that the witness deliberately evaded a direct answer to my question, and I want him to understand that I so understood and regarded the answer he gave, because I am not trifling here. This is very serious to us.

144 Mr. HARRY YOCKEY. Well, now, your Honor, if anybody is doing any trifling here, we certainly are not. I would like to have the record read by the Reporter, the question and the answer, because the record will show that the witness stated he did not know what counsel meant by "wishes, whims, and desires," and so forth.

Mr. EGGERS. All right. But you were referring to Mr. Clardy's last statement—or his statement following the reading of the question.

Mr. HARRY YOCKEY. Yes.

Mr. EGGERS. You are objecting to that statement?

Mr. HARRY YOCKEY. Yes.

Mr. CLARDY. Well, then, let us have the record read once more. (The record was read.)

Mr. CLARDY. That does not answer the question, your Honor.

Mr. EGGERS. As I understand it, Mr. Yockey, you were objecting to the statement of Mr. Clardy just read by the Reporter.

Mr. HARRY YOCKEY. Yes—to his insulting statement.

Mr. CLARDY. There was nothing insulting about it.

Mr. EGGERS. Well, now, just a moment.

Mr. CLARDY. The witness is just simply fencing with me, your Honor, when the question could be answered directly, and I do not intend to let him fence with me if I can help it.

145 Mr. EGGERS. Just a moment, now, gentlemen, just a moment. I think we can satisfy both of you. In the first place, the statement of Mr. Clardy can go out, about keeping the witness here over into tomorrow. Now, I do not think that the witness answered the question.

Mr. CLARDY. With that ruling, your Honor, I do not care whether it goes out or not.

By Mr. CLARDY:

Q. Now, Witness, I would like to have you answer my question.

A. I thought I had answered it in my preceding answer, to your other question.

Q. I did not hear that.

A. I say, I thought I had answered your question—

Q. No, you did not.

A. In what I said before.

Q. You can answer this particular question by yes or no, and that is the way I would like to have you answer it.

A. All right. State it again.

Mr. EGGERS. Read the question once more to the witness, Mr. Reporter.

(Question again read.)

Mr. HARRY YOCKEY. And you want him to answer that question yes or no, do you?

Mr. CLARDY. Yes.

Mr. EGGERS. Well, as I understood it, the witness answered  
146 that he did not understand what you meant by "wishes, whims, and desires," and so forth.

The WITNESS. Yes.

Mr. CLARDY. Then I told him what I meant by that.

Mr. EGGERS. Yes.

Mr. CLARDY. Now, I would like to have an answer.

Mr. EGGERS. Well, now, you have really got two questions there,

Mr. Clardy. Why not just put another question, the way you want it.

Mr. CLARDY. All right.

By Mr. CLARDY:

Q. My question to you now, Witness, is this: whenever The Pennsylvania Railroad Company wants The Willett Company to do something, in a certain way, and expresses that want or desire in plain language to The Willett Company, the desired results are obtained by the railroad company, are they not?

A. Well, I would not say that it has been necessary for us to do what you have been talking about, or to take any action such as you are suggesting here, because—

Exam. HARRISON. Mr. Witness, can you not answer that question by yes or no?

A. The answer is: no.

By Mr. CLARDY:

Q. The answer is: no?

A. Right.

Mr. EGGERS. All right.

147 Exam. HARRISON. Let us try to get along a little faster here, gentlemen.

Mr. CLARDY. All right.

By Mr. CLARDY:

Q. Now, Witness, will you give me one single instance in which there was the expression of a desire on the part of The Pennsylvania Railroad Company, that a certain action be taken, or a certain course followed by the subsidiary, where that action was not taken, or where that course was not followed?

Mr. HARRY YOCKEY. Well, now, just a moment. Counsel is assuming something, now. He is trying to get another answer.

Mr. CLARDY. No.

Mr. EGGERS. I may have misunderstood his answer, but—

Mr. HARRY YOCKEY. Mr. Clardy is assuming now that there has been such a situation.

Mr. CLARDY. No. I am asking that question on the basis of the answer that he just gave. Maybe I misunderstood the answer.

Mr. ANDERSON. I think the purport of the answer was, "No, the desired results are obtained."

Mr. CLARDY. No. I did not understand it that way. Do I correctly understand now that when the witness answered "No," he meant that there has never been any instance when there has been any disobeying of orders?

Mr. HARRY YOCKEY. Yes.

By Mr. CLARDY:

Q. Is that what you meant to say, Witness?

148 A. Right.

Mr. CLARDY. Well, then, that is all right. That is not the way I got it. I understood it the other way.

By Mr. CLARDY:

Q. Now, Witness, did you as a director of this company actually have anything to do with the preparation of these exhibits, or did you make any suggestions that led to the preparation of these exhibits—or rather, I mean to say, this application?

Mr. EGGERS. The application?

Mr. CLARDY. Yes.

A. Well, perhaps I can answer that question better in this way: I am not particularly familiar with it, but as general manager of the Western region of The Pennsylvania Railroad, I can say that from studies that were made under my direction, it was deemed necessary, in order to provide the proper kind of service for us to make application for a certificate here.

By Mr. CLARDY:

Q. Now, when you say "us"—

A. The Pennsylvania Railroad.

Q. You are speaking of The Pennsylvania Railroad?

A. Yes, sir.

Q. All right. Now, then, as a director of The Willett Company, did you do anything with respect to the preparation or filing of the application, or getting ready for this hearing?

A. The directors of The Willett Company, of Indiana, approved their applying to the Interstate Commerce Commission for the necessary certificate.

149 Q. That is one instance, then, in which The Pennsylvania Railroad Company told The Willett Company what it wanted, and the directors approved it; is that correct?

A. Yes.

Q. Yes, and you attended the meeting and helped in the approval of it, did you not?

A. I was at the meeting at which it was approved; yes, sir.

Q. But you took no active part in anything that happened there?

A. It was not necessary.

Q. Why not?

A. Because it was just—well—

Q. Because it had already been determined by the railroad company; that is correct, is it not?

A. The railroad company determined that it needed the service.

Q. Sure.

A. And it decided to have The Willett Company, of Indiana perform the service for the railroad company.

Q. Very well. Now, over my objection you were permitted to answer a question or two, and ~~so~~ was the preceding witness. I want to find out now if you made any independent investigation, either, on behalf of the railroad company or its subsidiary, The Willett Company, into the available trucking service already in the field, before this application was filed?

Mr. HARRY YOCKEY. Now, just a moment. We want to  
150 object to that. The Commission has held in all of these rail cases that the Commission has no jurisdiction or authority to require a railroad to deal with an independent truck line. The Commission has held that that is outside of its jurisdiction, and that the railroad has a right to deal with its own subsidiary; and the Commission has no jurisdiction or authority to require the railroad to do otherwise. Now, this particular question, as to whether he did or whether he did not make such an investigation that counsel refers to, is not pertinent to this particular issue.

Mr. CLARDY. Well, now, I am most happy to have that statement of Mr. Yockey in the record—

Mr. HARRY YOCKEY. It was made for the record.

Mr. CLARDY. Because it conforms to my theory of the case. Whether I am right, or whether he is right, at least, we agree on the facts. I contend, under the statute, that in every case it is permissible, and altogether proper, to find out whether the applicant, or any shipper, or anyone else who appears in support of the application, has made any investigation into the already available transportation facilities. I respectfully insist on an answer to my question, and I want to insist that it be answered categorically, yes or no.

Mr. EGGERS. Will you let me hear that question again, please, Mr. Reporter.

(Question read.)

151 Mr. HARRY YOCKEY. Are you through, Mr. Clardy?

Mr. CLARDY. Yes.

Mr. HARRY YOCKEY. I again raise the point, if the Board please, that there is no jurisdiction involved here. The Commission has held, repeatedly, in all of these cases, that it has no jurisdiction to require that.

Mr. ANDERSON. It is not a question of jurisdiction.



Mr. HARRY YOCKEY. Well, if the Commission does not have jurisdiction of the subject matter, then any inquiry into it would be beyond the issue of the case.

Mr. EGGERS. The question went to an inquiry or investigation by The Willett Company, did it not?

Mr. HARRY YOCKEY. No, your Honor. He was not asking about The Willett Company. His question went to some inquiry or investigation by The Pennsylvania Railroad.

Mr. EGGERS. No; not as I understood it.

Mr. BARKELL. How about that, Mr. Clardy?

Mr. CLARDY. My question specifically went to whether or not the witness had made any investigation. I do not care in what capacity he was acting.

Mr. HARRY YOCKEY. All right.

Mr. CLARDY. He is the witness here, now, and I am entitled to find out what he knows.

Mr. EGGERS. The objection is overruled.

Mr. HARRY YOCKEY. As I understand it, your Honor, the  
152 exceptions are automatically noted.

Mr. EGGERS. Yes.

Mr. HARRY YOCKEY. For both sides.

Mr. EGGERS. Yes. The Reporter will show an exception to each adverse ruling.

Mr. CLARDY. I have been going on that same assumption, also.

Mr. HARRY YOCKEY. Yes.

Mr. EGGERS. Your exceptions are noted.

By Mr. CLARDY:

Q. Now, Witness, will you answer my question, please.

A. Give it to me again.

Mr. CLARDY. Will you read it.

(Question read.)

A. I did not.

By Mr. CLARDY:

Q. Did you have anything to do with directing the preparation for this case, or in any way directing the activities on behalf of the Pennsylvania Railroad, in getting ready for this case?

A. I did not.

Q. Who did for that company?

A. Mr. Christie.

Q. He is not your superior, is he?

A. No.

Q. He is your subordinate?

153 A. Yes.

Q. Did you issue any orders to Mr. Christie, to make any investigation into the transportation facilities already available in the field?

A. I did not.

Q. Do you know whether or not he made such an investigation?

A. I do not.

Q. Do you, yourself, without having made such an investigation, have any present knowledge of the facilities that are already being offered by the motor carriers to the public between any of the points involved in this application?

A. No.

Q. Do you know whether or not Mr. Christie has such knowledge?

A. I do not.

Q. You have not discussed that subject with him?

A. No.

Q. Do you know whether or not anybody on behalf of The Pennsylvania Railroad Company, made any such investigation to discover the available facilities.

A. I cannot say.

Q. Are you the sole person representing the railroad company, or connected with the railroad company, who decides and determines the question as to whether or not you will use truck service?

A. Insofar as the Western region of the Pennsylvania Railroad is concerned, I am; yes, sir.

154 Q. Are you the man, then, who made the arrangements with some carriers up in Michigan with respect to service that they are presently rendering you between some of the points involved in this application?

A. I sign—or, I approve most of the contracts.

Q. Do you recall at this time the identity of the carriers, the motor carriers, that are serving you in Michigan now?

A. No.

Q. Well, you know, do you not, that there are such carriers?

A. In Michigan?

Q. Yes.

A. Oh, yes.

Q. If this application should be granted in its entirety, the operations between some of the points here involved, will be over the precise routes that are at the present time being operated by certain independent truck line companies, will they not?

A. Independent truck companies—

Q. Yes.

A. In what kind of service?

Q. In service for your railroad of the general type that is described in this application.

A. A very small part of it.

Q. Well, there is some such operation, is there not?

A. I believe there is.

Q. Or there will be.

155 A. Yes, sir; but just a small part of it.

Q. Do you propose that this service by The Willett Company, if authorized, will take the place of the service which is presently being rendered by these carriers, referred to?

A. Yes.

Q. Although you do not even know the names of those carriers at the present time, do you?

A. No, sir; I do not recall that. I believe there is one, but I am not certain of the name; I don't recall the name.

Q. Did you make any investigation into the kind, quality, or character of the service that they are rendering you, prior to the filing of this application?

A. Well, the service that it is rendering us—I believe it is just one company; I think I am correct in that—covers just a short haul on a branch where there is very infrequent service.

Q. That may be, Witness. We will develop that later, but my question to you is: Did you make an investigation—

A. No.

Q. Into the character, kind, quality or nature of the service that is being presently rendered you there?

A. No, sir.

Q. So that you have no present knowledge of the kind of service that is being rendered you there?

A. That is correct.

156 Q. You did not set up the schedules that are involved in the exhibits—or contained in the exhibits that have been presented in this case here, did you?

A. No.

Q. That matter was all handled by the other witness, Mr. Christie; is that correct?

A. Why, I would assume so; yes, sir. I believe I heard Mr. Christie so testify.

Mr. CLARDY. That is all.

Mr. DES ROCHES. I have just a few questions, please.

By Mr. DES ROCHES:

Q. Mr. Symes, The Willett Company is incorporated under the laws of what state?

A. Indiana.

Q. Indiana?

A. Yes, sir.

Q. What is the capitalization of the company?

A. I do not recall offhand just what the capitalization of the company is.

Q. The stock of the company is all owned by—what is the correct name of that company again?

A. American Contract & Trust.

Q. American Contract & Trust Company?

A. Yes, sir.

Q. Of Philadelphia?

A. Yes.

157. Q. Are you also an officer of that company?

A. No.

Q. How many directors has The Willett Company?

A. Six, I believe it is.

Q. Do all of the directors of that company—

A. Or rather—pardon me—it is seven, I should say.

Q. Seven directors.

A. Yes.

Q. And do all of the directors of that company occupy positions of trust with The Pennsylvania Railroad Company?

A. All but one of them, who is not directly connected with The Pennsylvania Railroad.

Q. Is he indirectly connected with it?

A. Yes.

Q. Who are the officers of The Willett Company?

A. George G. Young, president.

Q. Is he connected, also, with The Pennsylvania Railroad Company?

A. Well, now, I do not believe that he is; no, sir. As a matter of fact, I know he is not.

Q. All right. Continue. Who are the other officers?

A. J. P. McArdle.

Mr. HARRY YOCKEY. Do you mean directors?

Mr. DES ROCHES. Pardon me?

158. Mr. HARRY YOCKEY. You referred in your question to other officers. Are you talking about the directors?

Mr. DES ROCHES. I am asking the witness now about the officers.

Mr. HARRY YOCKEY. All right.

A. J. P. McArdle is vice president and general manager.

By Mr. DES ROCHES:

Q. Who is the secretary?

A. D. B. Young is secretary.

Q. Who is treasurer?

A. W. M. Whitney.

Q. How many employees has The Willett Company?

A. I cannot answer that question.

Q. Are those employees on the pay roll of The Willett Company, or on the pay roll of The Pennsylvania Railroad Company?

A. They are on the pay roll of The Willett Company of Indiana.

Q. How are they paid?

A. Well, now, I believe—well, I think Mr. McArdle will have to answer that question for you.

Q. You do not know?

A. No.

Mr. HARRY YOCKEY. If I may interrupt, your Honor, I might just say here for the benefit of counsel that Mr. McArdle will go into all of these details a little later on, when he is on the witness stand here.

Mr. DES ROCHES. He will be on the stand, will he?

Mr. HARRY YOCKEY. Yes.

159 Mr. DES ROCHES. All right.

Mr. HARRY YOCKEY. And the records will be available, regarding all of those details.

Mr. DES ROCHES. Very well.

Mr. HARRY YOCKEY. As to equipment, personnel, and so forth.

Mr. DES ROCHES. All right. I just have one further question, then, I believe.

By Mr. DES ROCHES:

Q. Mr. Symes, do you have a copy of the contract here, between The Willett Company and The Pennsylvania Railroad Company?

A. Mr. McArdle has a copy of it.

Q. He has that also?

A. Yes, sir.

Mr. HARRY YOCKEY. Were you asking me?

Mr. DES ROCHES. I was asking both of you.

Mr. HARRY YOCKEY. Yes, he has it; we have a copy.

Mr. DES ROCHES. All right. That is all.

Mr. CLARDY. Say, how do you pronounce that name, anyway; WILlett, or WILLETT?

Mr. HARRY YOCKEY. WILLETT.

Mr. MOBERLY. I have about two questions, your Honor.

By Mr. MOBERLY:

Q. Mr. Symes, does The Pennsylvania Railroad assume any operating deficit, if the same occurs, of The Willett Company?

160 A. Assume any operating deficit, did you say?

Q. Yes, sir.

A. It has not.

Q. It does not or it has not?

A. Well, it has not.

Q. What control over the finances of The Willett Company does The Pennsylvania Railroad Company exercise, if any?

Mr. HARRY YOCKEY. Well, now, just a moment. Let me hear that question again, please, Mr. Reporter.

(Question read.)



Mr. HARRY YOCKEY. I object to the question, your Honor. There is no evidence in this record that it does control them.

Mr. MOBERLY. I am merely asking him the question.

Mr. HARRY YOCKEY. If you want to ask him the question, all right, but your pending question assumes that they do have. You are asking him what control they have.

Mr. EGGERS. Well, to save time, supposing you reframe the question.

Mr. MOBERLY. All right.

Mr. EGGERS. We will sustain the objection.

Mr. DES ROCHES. It is a subsidiary.

By Mr. MOBERLY:

Q. Does The Pennsylvania Railroad Company exercise any control over the finances of The Willett Company?

A. It has not. Those matters are handled by The Willett Company of Indiana.

161 Q. Do you mean by your answer, Mr. Symes, that The Pennsylvania Railroad Company has not exercised any control over the finances of The Willett Company of Indiana?

A. Yes, sir; that is correct, to the best of my knowledge.

Q. Well, where do the earnings and the profits, if any, of The Willett Company of Indiana go?

A. Well, the earnings, of course, go to make up the operating expenses; and if there be a profit, it is handled through a dividend.

Q. To whom?

A. The owner of the stock.

Q. The American Contract & Trust Company?

A. Yes, sir.

Q. And that goes directly to The Pennsylvania Railroad; does it not?

A. I presume it does.

Q. During the time during which The Willett Company has been in existence, has it ever been operated at a loss?

A. I cannot answer, for all the time it has been in existence, and I can only answer for the three years that I have been associated with it, that I have been on the board of directors.

Q. All right.

A. For that period, it has not.

Q. If it were to be operated at a loss, is there any provision whereby the Pennsylvania Railroad would make up the deficit?

162 A. There is none that I know of.

Q. Well, have you ever investigated that matter?

A. No.

**Q.** If there would be a loss to The Willett Company of Indiana, that loss would flow directly to The Pennsylvania Railroad; would it not?

**Mr. HARRY YOCKEY.** Now, just a moment. I want to object to that question—you had finished the question, had you not?

**Mr. MOBERLY.** Yes.

**Mr. HARRY YOCKEY.** I want to object. I think that subject matter has now been gone into far enough. These are questions that have no bearing whatever on any issue in this case. The witness has already testified as to the control, that one company is a subsidiary of the other one, and the other one is a subsidiary of the other one; and any question as to how the money flows in case of a loss has no bearing here. The witness has testified that nothing of the sort, that counsel is hinting at, has happened, in his experience.

**Mr. EGGERS.** Sustained.

**Mr. MOBERLY.** That is all.

**By Mr. CLARDY:**

**Q.** Well, Witness, if the operations of The Willett Company, on the rates which you pay that company, should prove so unprofitable that The Willett Company could not continue operations, do you want us to understand that the parent company would not supply the deficiency, so as to keep the operations going?

**Mr. HARRY YOCKEY.** Well, now, just a moment. I want to object to that question also, if the Board please, because he is raising a question now that is not involved here, and that is contrary to what the testimony shows. The testimony shows that it always has been a profitable operation as far as the witness knows. The witness himself is not connected with the American Contract & Trust Company, and counsel is getting into an involved situation here, now, where something might go from one company to the other.

**Mr. EGGERS.** If he knows, he may testify.

**Mr. CLARDY.** Surely.

**The WITNESS.** State the question again.

**Mr. CLARDY.** Read it, please.

**(Question read.)**

**A.** Well, I would assume, under those conditions, that the vice president and general manager of The Willett Company of Indiana, would request an increase in rates.

**By Mr. CLARDY:**

**Q.** And if necessary the advance of sufficient funds to keep the company running; is that correct?

**A.** Well, now—

**Mr. HARRY YOCKEY.** Well—

**A.** Well, I told you that I did not think it would be necessary to do that.

By Mr. CLARDY:

164 Q. Well, Witness, do you not as a matter of fact, in negotiating the rates between the two of you, attempt to fix them solely on the basis of just how much it will take to keep the trucking company running?

A. We figure that they should earn cost plus a reasonable profit, that they are entitled to cost plus a reasonable profit for the operation of the service that we request of them; the same as we would in the case of any other company.

Q. Knowing that any profit that accrues will flow right back into the same coffers?

A. No.

Q. How?

A. Not knowing that at all; no, sir. Just as a company; I say.

Q. But you do know that it will go back there, if there is a profit; do you not?

A. If there is a profit.

Q. Surely.

A. Yes.

Q. And if there is a loss, if it goes the other way, you know where the money is coming from; do you not?

Mr. HARRY YOCKEY. Now, just a moment. That is the same question, and I object to it.

Mr. CLARDY. I think it is important for two reasons, your Honor; one, to demonstrate that there is not even a Dr. Jekyll-Mr. Hyde set-up here, but it is one and the same all the time—

165 Mr. EGGERS. Mr. Clardy, I think the record is clear.

Mr. HARRY YOCKEY. I think so.

Mr. CLARDY. Well, I am glad to hear that statement.

Mr. EGGERS. Is there any further cross-examination?

Mr. CLARDY. Not now.

Mr. EGGERS. Mr. Yockey, have you any further questions?

Mr. HARRY YOCKEY. No; I think that will be all.

Mr. CLARDY. He will not have to come back tomorrow.

The WITNESS. I hope not.

Mr. EGGERS. You are excused.

(Witness excused.)

Mr. EGGERS. Call the next witness.

Mr. HARRY YOCKEY. Mr. McArdle.

166 J. P. McARDLE was sworn and testified as follows:

Direct examination by Mr. HARRY YOCKEY:

Q. You may state your full name.

A. J. P. McArdle.

Q. Where do you live?

A. Chicago.

Q. In what capacity are you connected with The Willett Company of Indiana, Inc., the applicant herein?

A. Vice president and manager.

Q. How long have you been vice president and manager?

A. Since May 1936.

Q. Were you connected with the applicant before that?

A. Yes.

Q. How long?

A. Since December 1, 1935.

Q. What is the correct name of the applicant? Is it The Willett Company of Indiana, Inc.?

A. Yes, sir.

Q. As vice president of the company, are you acquainted with its corporate and business affairs?

A. Yes.

Q. It is a corporation?

A. Yes, sir.

Q. Organized under the laws of what state?

167 A. Indiana.

Q. When?

A. May 7th, 1934.

Q. Where is its principal legal office and place of business?

A. 1250 Consolidated Building, Indianapolis.

Q. Does it have an operating office?

A. Yes.

Q. Where is that?

A. 323 West Polk Street, Chicago.

Q. And is it actually operated at that address in Chicago?

A. It is.

Q. In what business is the applicant engaged?

A. Common carrier by motor truck.

Q. What type of merchandise does it handle, as to being commodities generally, or otherwise?

A. Commodities generally.

Q. Does it haul for any other person than The Pennsylvania Railroad Company?

A. No.

Q. Does it propose to haul for anybody but The Pennsylvania Railroad Company over these seven routes?

A. No.

Mr. CLARDY. Just a moment. To which I am going to object, and I move that the answer be stricken out. The answer came before I had an opportunity to interpose my objection.

168 The application which is here before us is for a common carrier certificate, and no such self-imposed limitation

means anything in the proof of public convenience and necessity. I ask, therefore, that the answer be stricken.

Mr. YOCKEY. In every one of these cases, in every one of the certificates that The Willett Company has, the Commission upon our evidence of this type, has imposed a restriction to the effect that all of the freight is the freight of The Pennsylvania Railroad Company, and that we must confine ourselves to that, and it describes the service, or the freight, as being transported on the freight bills, and bills of lading of The Pennsylvania Railroad; and that is what they have limited us to, and that is the type of service that we are asking for in this case, and that is the question that I am asking.

Mr. EGGERS. All right. Just a moment, now, gentlemen. The objection is overruled.

By Mr. HARRY YOCKEY:

Q. Do you have the question in mind?

A. I answered it.

Mr. HARRY YOCKEY. That is right.

By Mr. HARRY YOCKEY:

Q. Well, now then, is all of the movement by motor vehicle as far as the applicant is concerned?

A. Yes.

Q. And the operations that are involved here, that you are testifying about, are interstate operations, are they?

A. Yes.

169 Q. Does the applicant now haul, or does it propose to haul, any passengers?

A. No, sir.

Q. How long has the applicant been engaged as a common carrier in interstate commerce of commodities generally?

A. Since May 1934.

Q. You understand, I take it, Mr. McArdle, that intrastate shipments are not involved in this hearing.

A. Right.

Q. And in all of your testimony you will exclude any reference to intrastate shipments.

A. Have you secured authority from the Interstate Commerce Commission for operations over the 25 routes that have been referred to here?

A. Yes.

Q. I will now hand you applicant's exhibit No. 3 in this case, and I will ask you if this exhibit contains a correct description of the numbers assigned by the Interstate Commerce Commission to your various applications, and as reflected in your certificates?



A. Yes, sir; so far as the first seven groups are concerned, in the first part of the sheet; and so far as this application is concerned, in the last group.

Q. Well, now, then, taking for instance the first group set forth on the exhibit, those routes are designated as "Routes covered by grandfather application MC 2815."

A. Yes.

Q. Are you operating all of those routes?

A. Yes.

Q. The next group of routes is designated as "Routes covered by application MC 2815 BMC 10."

A. Yes.

Mr. EGGERS. If I may interrupt, Mr. Yockey, for a moment.

Mr. HARRY YOCKEY. Yes.

Mr. EGGERS. I think you went over this exhibit in some detail with the preceding witness, did you not?

Mr. HARRY YOCKEY. I believe I did, yes, sir, your Honor. I can ask this witness one question.

Mr. EGGERS. Yes. Will you do that. Those do not have much to do with this particular application.

Mr. HARRY YOCKEY. All right, your Honor.

By Mr. HARRY YOCKEY:

Q. Mr. McArdle, are you operating all of these particular routes as described under their respective MC numbers, as indicated in the exhibit, with the exception of Sub 6?

A. Yes.

Q. And are the routes covered by the last group, designated as the proposed routes, covered by application MC 2815, Sub 6, the routes you are seeking authority for in this application?

A. Yes.

171 Q. As vice president and manager of the applicant, what are your duties and responsibilities?

A. I have general supervision over the entire operation; the personnel, the equipment, the books of the company, the maintenance of offices, the preparation of applications, testifying before commissions, representing the company, and any and all matters pertaining to the operations of the company.

Q. Are you acquainted, then, with the operations of the company?

A. I am.

Q. As manager and vice president?

A. Yes, sir.

Q. What has been your experience in the trucking industry?

A. I have been in the trucking industry more than 20 years.

Q. Now, does the applicant propose to operate over regular routes?

A. Yes.

Mr. HARRY YOCKEY. Mr. Reporter, applicant's exhibit No. 7 for identification, please.

(Exhibit 7, Witness McArdle, marked for identification.)

By Mr. HARRY YOCKEY:

Q. Mr. McArdle, I hand you applicant's exhibit No. 7 for identification, and ask you to state who prepared that.

A. I did.

Q. What does that exhibit purport to cover?

A. The exhibit covers our description of the proposed routes, involved in the present application.

Q. Now, Mr. McArdle, will you refer to applicant's exhibit No. 2 in this case, which is the map which has been heretofore introduced in evidence here. Do you have that before you?

A. Yes, sir.

Q. Does that exhibit cover the same routes that are set forth in red on the map?

A. Yes.

By Mr. EGGERS:

Q. That is, exhibit 2.

A. Yes.

By Mr. HARRY YOCKEY:

Q. My question was, does exhibit No. 7 for identification cover the same routes that are set forth in red on exhibit No. 2?

A. Yes.

Q. But does it cover minutely the exact highways over which the applicant desires to operate these particular routes?

A. Exhibit 2?

Q. Yes.

A. No, sir.

Q. Now, what does your exhibit No. 7 for identification purport to do?

A. Exhibit No. 7 definitely describes minutely the routes which are to be followed.

Q. Over all of these routes?

A. Yes, sir.

Q. Those are the routes set forth in exhibit No. 7 for identification.

A. Yes.

Q. And it describes here the manner in which you desire to operate under this instant application, if a certificate is granted; is that correct?

A. Yes, sir.

Mr. HARRY YOCKEY. If the Board please, we offer applicant's exhibit No. 7 for identification in evidence.

Mr. EGGERS. Is there any objection?

Mr. CLARDY. No objection.

Mr. BARKELL. Mr. Yockey, does your exhibit No. 7 for identification correspond to your application?

Mr. HARRY YOCKEY. Yes, it does, with one or two exceptions where there has been a change in the numbers of the highways.

Mr. BARKELL. I have a notation of corrections that were made, or that should be made, in the original application. Now, as to whether or not they have been covered in this exhibit, I do not know.

Mr. HARRY YOCKEY. Well, let me ask Mr. McArdle about that.

By HARRY YOCKEY:

Q. Mr. McArdle, in your exhibit No. 7 for identification here, is the exact highway designation, as far as highway numbers are concerned, the same in this exhibit as it is in the description contained in the application?

A. With the exception in the changes that have been referred to, where changes have been made in the designation of various highways in the state of Michigan since the time the survey was made; yes, sir.

Q. In other words, since the time the original application was made, you have found that there are some highways which, as far as the numbering system is concerned, have been changed?

A. Yes.

Q. Some of those have been changed, and you did not know it; is that correct?

A. Well, they had been changed subsequent to the time that we made the survey of these routes, and logged it.

Q. But aside from that, the routes are exactly as described in the application, with that minor exception; is that correct?

A. Yes, sir.

By Mr. BARKELL:

Q. What I wanted to be sure about was this, Mr. McArdle: you have some documents attached to your application. You are sure, now, that you have them all corrected, are you?

A. Reasonably sure; yes, sir.

Q. Well, then, I wonder if it is necessary to go over them again, to find out whether those changes have been made, or not?

A. I think it is all right in there now.

Mr. BARKELL. Well, now, let us see a moment.

Mr. HARRY YOCKEY. If your Honor please, may we go off the record on this for just a moment, please?

175

Mr. BARKELL. Yes.

(Discussion outside the record.)

Mr. BARKELL. Now back on the record. Have the corrections been indicated?

Mr. MUNSHAW. Yes.

Mr. CLARDY. It is nothing more than a correction in the description, as I understand it.

Mr. HARRY YOCKEY. That is all.

Mr. CLARDY. In other words, you do not change the actual highways.

Mr. HARRY YOCKEY. No.

Mr. CLARDY. But there is a difference in the numbering.

Mr. HARRY YOCKEY. Yes.

Mr. CLARDY. If you had different highways I would object.

Mr. HARRY YOCKEY. Well, there is no difference in the highways. The designated numbers only have been changed.

Mr. EGGERS. Is there any objection to applicant's exhibit No. 7? (No response.) There being no objection, applicant's exhibit No. 7 will be accepted, and considered as read in evidence.

(Exhibit No. 7, Witness McArdle, received in evidence.)

By Mr. HARRY YOCKEY:

Q. Well, now then, Mr. McArdle, without going into it too minutely, has the applicant received certificates covering all of the 25 routes that are set forth in applicant's exhibit No. 1 here?

176 A. Yes, sir.

Q. That is, from the Interstate Commerce Commission?

A. Yes.

Q. And has the applicant also received state authority from these various states through which it operates over these 25 routes?

A. Authority has been received from every state with the exception of Ohio, and an application has been filed for several months there, but we have heard nothing from it.

Mr. ANDERSON. May I interrupt, if your Honor please, to say that the routes actually number 26, although they have been referring to them as 25 in number.

Mr. HARRY YOCKEY. Off the record—

Exam. HARRISON. No, on the record.

Mr. HARRY YOCKEY. All right. I will say that there are two of them that have been duplicated. One of them, one of the applications, covered mail and express only, under the grandfather, not the interim application; and then later on we were given full authority. That is what that is.

Mr. EGGERS. All right.

By Mr. HARRY YOCKEY:

Q. Now, Mr. McArdle, the application that was prepared and filed, the original application: by whom was that prepared?

A. By me.

Q. Who actually signed the application?

177 A. The president, George Young.

Q. The president of the applicant.

A. Yes, sir.

Q. Has there since been an amendment to the application—

A. Yes.

Q. Filed with the Interstate Commerce Commission?

A. Yes, sir.

A. And the amendment covered one route, adding a short route to the original application, from Lake City to Manton, Michigan; is that correct?

A. Yes, sir.

Q. Why was that not included in the original application, if you know?

A. In drawing the original application, that portion of the route was omitted inadvertently, and it was discovered after the application had been filed; so we immediately proceeded to have the application amended, to include that.

Mr. HARRY YOCKEY. Mr. Reporter, applicant's exhibit No. 8 for identification.

(Exhibit No. 8, Witness McArdle, marked for identification.)

By Mr. HARRY YOCKEY:

Q. Now, Mr. McArdle, I hand you applicant's exhibit 8 for identification, and will ask you who prepared that?

A. I did.

Q. What does that exhibit purport to show?

178 A. It shows the mileage by truck over the log—or, rather, I mean to say, over the route, as logged by me, between Fort Wayne, Indiana and Kalamazoo, Michigan; Grand Rapids and Kalamazoo, Michigan; Grand Rapids and Cadillac; Cadillac and Traverse City—

Mr. EGGERS. Just a moment, Mr. McArdle. You will not have to go through all of them.

The WITNESS. All right.

By Mr. HARRY YOCKEY:

Q. Does that cover all seven routes?

A. Yes.

Q. In one column you have the truck mileage, that the truck shipments will travel over each of those routes; is that correct?

A. Yes, sir.



Q. And in the other column, you show the actual railroad mileage covering the same routes?

A. Yes.

Q. And you propose, if granted authority here, to operate over the mileage as set forth in the column denominated "Truck mileage," do you?

A. Yes, sir.

Q. And that covers each and all of the routes set forth in the application; is that correct?

A. Yes, sir.

Mr. HARRY YOCKEY. We offer applicant's exhibit No. 8 for identification, in evidence.

Mr. ANDERSON. No objection.

Mr. EGGERS. Is there any objection?

Mr. CLAREY. I have no objection.

Mr. EGGERS. There being no objection, applicant's exhibit No. 8 will be accepted and considered as being read in evidence.

(Exhibit 8, Witness McArdle, received in evidence.)

By Mr. HARRY YOCKEY:

Q. Now, Mr. McArdle, I will ask you to refer to the application that has been filed in this particular case. Do you have a copy of the application before you?

A. Yes, sir.

Q. Have you set forth therein the names of the directors of The Willett Company?

A. Yes, sir.

Q. Is that a correct list?

A. It is.

Q. Are those gentlemen directors of The Willett Company at the present time?

A. Yes, sir.

Q. Now, what is the fact as to the capitalization of The Willett Company of Indiana?

A. (No answer.)

Q. What is it capitalized for?

180 A. \$300,000.

Q. What is the par value of the stock?

A. \$25.

Q. How much stock has been sold?

A. 2,800 shares.

Q. Who owns all of that 2,800 shares?

A. The American Contract & Trust Company.

Q. You have been present here, and heard Mr. Symes testify regarding who owns that stock, have you not?

A. Yes.

Q. Is that true, as far as you know?

A. Yes.

Q. His testimony as to that?

A. Yes.

Q. Now, did you also hear the evidence of Mr. Christie, regarding the service?

A. Yes.

Q. Is there any difference in the service that is being rendered on the 25 routes now, and what you propose to render over the seven routes?

A. No, sir.

Q. Is it the intention of the applicant to haul for anybody except for The Pennsylvania Railroad Company?

Mr. CLARDY. The same objection.

Mr. EGGERS. The same ruling—objection overruled, and  
181 exception noted.

A. What is the question again?

By Mr. HARRY YOCKEY:

Q. Does the applicant haul at the present time for anybody except The Pennsylvania Railroad Company?

A. No.

Q. Is it the intention of the applicant to haul for anybody, except the Pennsylvania Railroad Company, over the new seven routes?

Mr. CLARDY. That is the same question.

Mr. HARRY YOCKEY. No, it is not the same question. I have changed it.

Mr. CLARDY. I still object.

Mr. EGGERS. Overruled.

A. No.

By Mr. HARRY YOCKEY:

Q. Now, Mr. McArdle, is this operation that you speak of, what is commonly called and denominated as a station-to-station operation?

A. Station-to-station line-haul operation.

Q. Is it the intention of the applicant—or rather, let me ask you this: in all of the services that are being rendered at the present time by The Willett Company over the 25 routes that have been referred to, is there any of that service that is rendered on the bills of lading or freight bills of The Willett Company?

Mr. CLARDY. To which I object. Now, your Honor, I  
182 thought we had gone all over that once before.

Mr. HARRY YOCKEY. No.

Mr. CLARDY. And you sustained the objection to that, as dragging in the 25 routes. He has gotten them in a dozen times since then—

Mr. HARRY YOCKEY. Pardon me—

Mr. EGGERS. Just a moment.

Mr. CLARDY. Will you let me hear that question, please, Mr. Reporter.

(Question read.)

Mr. HARRY YOCKEY. We have a right to show here, if your Honor please, that this is one unified operation. That is the point that we are making. Here they are operating 25 routes, and they are going to operate seven more, and it is all the same type and kind of operation.

Mr. CLARDY. That still does not prove public convenience and necessity.

Mr. MOBERLY. You mean, counsel, you hope you are going to be operating seven more routes.

Mr. EGGERS. Sustained.

Mr. HARRY YOCKEY. What is the ruling?

Mr. EGGERS. The objection is sustained.

Mr. HARRY YOCKEY. All right.

By Mr. HARRY YOCKEY:

Q. Well, now, in the transportation that will be involved over the new routes, the seven new routes, will any of that transportation, or traffic, move on any of the freight bills or bills of lading of The Willett Company?

A. No, sir.

Q. On whose freight bills or bills of lading will the business move?

A. Those of The Pennsylvania Railroad.

Q. Under whose tariffs will it move?

A. The tariffs of The Pennsylvania Railroad.

Q. Does the applicant have any tariffs?

A. No.

Q. Does it propose to have any tariffs, as far as these interstate operations are concerned?

A. No.

Mr. HARRY YOCKEY. I am not just certain—did I ask Mr. Christie some questions about Kipp's National Substituted Freight Directory?

Mr. CLARDY. Yes.

By Mr. HARRY YOCKEY:

Q. What is the fact, Mr. McArdle, as to whether or not the applicant is listed in that directory at this particular time?

Mr. CLARDY. Well, now, to be consistent, I am going to object to that, as I did when that question was asked before. I think you overruled me at that time.

Mr. HARRY YOCKEY. I think they did.

Mr. CLARDY. However, I want the record to show the  
184 objection.

Mr. EGGERS. That has been answered, has it not, Mr. Yockey?

Mr. HARRY YOCKEY. Pardon me?

Mr. EGGERS. I think that question has been answered.

Mr. ANDERSON. I think it was answered by the other witness.

Mr. HARRY YOCKEY. All right. If they will stay off of that on cross-examination, I will get away from it right now.

Mr. DES ROCHES. It has already been gone into.

Mr. EGGERS. The objection is sustained.

Mr. HARRY YOCKEY. Well, if it has already been gone into, your Honor, I am just asking this witness to corroborate it. I think he should be permitted to corroborate the other testimony.

Mr. EGGERS. It would be merely repetition.

Mr. HARRY YOCKEY. Oh, I beg your pardon, your Honor. It would not be repetition. It would be repetition, if it were exactly the same testimony from the same witness; but I am merely asking him now to corroborate the testimony of another witness.

Mr. EGGERS. The Board has ruled.

Mr. HARRY YOCKEY. Will you permit him to answer?

Mr. EGGERS. No; the objection is sustained, because it would be repetition.

By HARRY YOCKEY:

185 Q. Now, then, regarding the service over these seven new routes, Mr. McArdle: is it the intention of the applicant to be listed in Kipp's National Substituted Service Directory? I believe that is the name of it.

Mr. CLARDY. To which I object on the ground that it is neither material nor competent here.

Mr. EGGERS. Just a moment. Let me hear that question again, please, Mr. Reporter.

(Question read.)

Mr. HARRY YOCKEY. Now, if your Honor please, I do not want to be foreclosed. Under Ex Parte 129, the Commission has laid down the manner in which this shall be done, and we want to show that we are going to comply with it.

Mr. EGGERS. For the same reason that was stated a moment ago here, Mr. Yockey, I think this is objectionable. Did not your other witness testify with regard to that?

Mr. HARRY YOCKEY. Yes; your Honor, but he testified for the railroad company, as to what the railroad was going to do. This witness now is testifying for the applicant.

Mr. MOBERLY. But it is all the same thing.

Mr. HARRY YOCKEY. No; it is not all the same.

Mr. EGGERS. Just a moment.

Mr. CLARDY. If there is a difference—

Mr. HARRY YOCKEY. One was testifying for the railroad, and the other is testifying for the applicant.

Mr. CLARDY. That difference is not visible to my naked eye.

Mr. HARRY YOCKEY. It may not be visible to yours, but it certainly is to ours.

Mr. CLARDY. Well, I hope to demonstrate it to the satisfaction of the Commission.

Mr. EGGERS. Now, just a moment, gentlemen. The objection is sustained.

Mr. HARRY YOCKEY. Sustained, your Honor?

Mr. EGGERS. Yes.

Mr. HARRY YOCKEY. Well, then—

Mr. CLARDY. What do you say now?

Mr. HARRY YOCKEY. At least, I will keep you from cross examining.

Mr. EGGERS. Let us proceed, gentlemen.

By Mr. HARRY YOCKEY:

Q. Now, Mr. McArdle, will the applicant receive any compensation from anybody, excepting The Pennsylvania Railroad, for this service in Michigan?

Mr. CLARDY. Just a moment, please. My attention was distracted, and I did not hear that question; will you read it, please? (Question read.)

Mr. CLARDY. If he will incorporate the word "directly" in there, I will not object. Otherwise, I will, because it calls for a conclusion.

Mr. HARRY YOCKEY. I submit, your Honor, that is a matter of cross-examination.

Mr. EGGERS. Overruled.

A. It will not.

By Mr. HARRY YOCKEY:

Q. Well, does it receive at the present time, in any of its operations, any compensation from anybody except The Pennsylvania Railroad?

Mr. CLARDY. Now, to which I object. If we are going to have to try these 25 routes again, we were not noticed of that.



Mr. EGGERS. The objection is overruled. Let the witness answer the question.

A. No, we do not.

Mr. HARRY YOCKEY. Just a moment, please.

Mr. CLARDY. Is counsel through.

Mr. HARRY YOCKEY. By no means. Mr. Reporter, applicant's exhibits Nos. 9 and 10 for identification, please.

(Exhibits 9 and 10, Witness McArdle, marked for identification.)

By Mr. HARRY YOCKEY:

Q. Now, Mr. McArdle, I will hand you applicant's exhibits Nos. 9 and 10 for identification, and ask you if they contain a correct list, or are a correct list of the tractors and trailers of the applicant?

A. Yes.

Q. Is that company-owned equipment?

Q. Does the company lease any of its equipment?

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A. No.

Mr. HARRY YOCKEY. We offer applicant's exhibits Nos. 9 and 10 for identification, in evidence.

Mr. ANDERSON. I have no objection.

Mr. EGGERS. Is there any objection? (No response.) There being no objection, applicant's exhibits Nos. 9 and 10 will be accepted and considered, as read in evidence.

(Exhibits 9 and 10, Witness McArdle, received in evidence.)

By Mr. HARRY YOCKEY:

Q. Now, Mr. McArdle, how many tractors and trailers do you desire to put into operation over the seven new routes, if a certificate is granted here?

A. There will be a total of twelve tractors and twelve trailers put into operation over these routes.

Q. And how many of those units will be in operation directly, and how many of them will be in reserve, if any?

A. There will be ten that will be in direct operation, daily operation, and two will be reserved.

Q. Do you at the present time have and own those particular twelve units?

A. Yes, sir.

Q. Meaning by "you," the applicant.

A. Yes.

Q. And are they listed in applicant's exhibits Nos. 9 and 10 here?

A. Yes.

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Q. Now, how many tractors—

Exam: HARRISON. Just a moment, please, Mr. Yockey. When you refer to a unit, do you mean a tractor and trailer?

Mr. HARRY YOCKEY. Let me ask the witness.

By Mr. HARRY YOCKEY:

Q. By your answer, Mr. McArdle, you mean twelve tractors and twelve trailers, do you not?

A. Yes.

Q. Or rather, twelve semitrailers.

A. Yes.

Q. Or twelve complete units.

A. Yes, sir.

By Mr. BARKELL:

Q. Is any of this equipment being used in operations over other routes?

A. Now?

Q. Yes.

A. No, sir, it is not—well, just a moment, now. Do you mean, that is in this list?

Q. Yes.

Mr. EGGERS. Exhibits 9 and 10.

By Mr. BARKELL:

Q. Yes, the twelve tractors and trailers that you are say going to be used in this operation.

A. No.

By Mr. EGGERS:

Q. Are they just standing idle now?

A. Yes.

By Mr. CLARDY:

190 Q. You bought them in anticipation, then, of getting this authority, I gather?

A. Yes.

Mr. HARRY YOCKEY. That is right.

Mr. EGGERS. All right. Proceed.

By Mr. HARRY YOCKEY:

Q. Now, Mr. McArdle, how many tractors and how many trailers are listed in these two exhibits?

A. 43 trailers and 41 tractors.

Q. How many employees does The Willett Company have at this time?

A. 78.

Q. And how many additional employees, if any, will be added to that list in the event that this certificate is granted?

A. 11.

Q. And what will they consist of; that is, what type of employees?

A. Primarily road drivers.

Q. Now, all of these employees whom you have spoken of as being in the employ of The Willett Company at the present time: whose employees are they?

A. Willett Company of Indiana.

Q. And will the 11 new employees who you say will be added, also be employees of The Willett Company of Indiana?

A. Yes, sir.

Q. Who pays and who will pay the salaries of those employees?

A. The Willett Company of Indiana.

Q. Who has the direction and control of the service of each and all of those employees, at the present time employed, or to be employed?

A. I have.

Q. That is, The Willett Company?

A. The Willett Company of Indiana; yes, sir.

Q. Are any of the employees whom you have enumerated, who are employed at the present time, or the ones who are going to be employed, in the employ of The Pennsylvania Railroad?

A. No.

Q. Now, you have testified regarding the control and direction of the employees of The Willett Company, by The Willett Company—

A. Yes.

Q. Is that same thing true of all of the operations of The Willett Company?

A. Yes.

Q. And will that same thing continue to be true of all of the operations of The Willett Company, in the event that a certificate is granted here covering the seven new routes?

A. Yes.

Mr. CLARDY. Would that be true—how is that again?

Mr. HARRY YOCKEY. Pardon me?

Mr. CLARDY. I did not catch that.

Mr. HARRY YOCKEY. I asked the witness if that same thing would be true of all of the operations of The Willett Company over the seven new routes.

192 Mr. CLARDY. I mean, I do not catch what you mean.

Mr. HARRY YOCKEY. The question is directed to showing that there is no control or direction by anybody except The Willett Company.

Mr. ANDERSON. Of the employees

Mr. HARRY YOCKEY. Yes.

Mr. CLARDY. All right.

Mr. EGGERS. Now, just a moment, gentlemen. Let us not get too much of this discussion between counsel into the record. There has been a question asked.

Mr. HARRY YOCKEY. I think the witness answered the question.

Mr. BARKELL. Yes.

Mr. EGGERS. The question has been answered. Let us go ahead.

Mr. HARRY YOCKEY. Mr. Reporter, applicant's exhibit No. 11 for identification.

(Exhibit 11, Witness McArdle, marked for identification.)

By Mr. HARRY YOCKEY:

Q. Now, Mr. McArdle, what is the fact as to whether or not the applicant company carries the types of insurance as required by the rules and regulations of the Interstate Commerce Commission?

A. It does; yes, sir—to the best of our knowledge.

Q. It does have insurance?

A. (Nodding head "Yes.")

193 Mr. EGGERS. Answer out loud, Mr. McArdle.

By Mr. HARRY YOCKEY:

Q. I say, it does have insurance.

A. I thought I answered that—yes.

Q. Have you listed that in an exhibit?

A. Yes.

Q. I now hand you applicant's exhibit No. 11 for identification. Is that a list of the insurance which is carried by the applicant company at this particular time?

A. Yes, sir, it is. This is the insurance that is on file with the Interstate Commerce Commission, and also in the several states in which we operate.

Q. As indicated on the exhibit.

A. Yes, sir.

Q. And this exhibit is a correct and true delineation of those items, is it?

A. Yes, sir.

Q. Showing the various states, and the various commissions where the insurance is on file?

A. Yes.

By Mr. BARKELL:

Q. Mr. McArdle, let me ask you right there: does not the application show that seven units are to be used in this operation?

A. It was stated that way originally in the application, that is true, yes, sir. However, subsequently, in going over the mat-

ter, we determined that better schedules could be worked up,  
194 to better expedite the movement, so we decided at that time  
to change it to 10 units, and for that reason we have planned  
and set our schedules up on the basis of 10 units.

Mr. HARRY YOCKEY. Did your Honor have another question?

Mr. BARKELL. No.

Mr. HARRY YOCKEY. We offer applicant's exhibit No. 11 for  
identification, in evidence.

Mr. EGGERS. Is there any objection?

Mr. CLARDY. I do not want to object to the exhibit, your Honor,  
but may I point out on the record that everything except the first  
line, dealing with the Interstate Commerce Commission, is im-  
material to the issue here.

Mr. ANDERSON. That is correct.

Mr. HARRY YOCKEY. It only goes to show that the applicant—  
well, does the Board want to hear from me on it?

Mr. EGGERS. No. Applicant's exhibit No. 11 will be accepted  
and considered as read in evidence.

(Exhibit 11, Witness McArdle, received in evidence.)

By Mr. HARRY YOCKEY:

Q. Now, Mr. McArdle, are you acquainted with the motor car-  
rier regulations of the Interstate Commerce Commission, as far as  
safety regulations are concerned?

A. Yes.

Q. And have you instructed your employees regarding those  
regulations?

A. Yes, sir.

195 Q. How?

A. By furnishing each and every employee with a copy of  
the Safety Regulations, as released by the Interstate Commerce  
Commission, through the superintendent of documents at Wash-  
ington.

Q. Is your equipment equipped in accordance with the require-  
ments for parts and accessories necessary to safe operation, as  
defined in part 2 of the Motor Carrier Act?

A. It is to the best of our knowledge, yes, sir.

Q. Now, Mr. McArdle, there has been introduced in evidence  
here a proposed schedule of the routes involved herein, which has  
been denominat<sup>d</sup> as applicant's exhibit No. 4.

A. Yes.

Q. Have you gone over that particular exhibit?

A. Yes.

Q. Is The Willett Company prepared to follow that schedule of  
operations in the event that a certificate is granted the applicant  
herein?



A. Yes.

Exam. HARRISON. Just a moment, please, Mr. Yockey. Mr. Reporter, will you go back and read the answer of the witness with respect to instructing his employees regarding the safety regulations.

(The record was read.)

Exam. HARRISON. Off the record.

196 (Discussion outside the record.)

Mr. EGGERS. Back on the record, now.

Mr. HARRY YOCKEY. Did your Honor have any further questions?

Exam. HARRISON. No.

Mr. HARRY YOCKEY. Mr. Reporter, applicant's exhibit No. 12 for identification.

(Exhibit 12, Witness McARDLE, marked for identification.)

By Mr. HARRY YOCKEY:

Q. Mr. McARDLE, I hand you applicant's exhibit No. 12 for identification, and will ask you to state what that is.

A. This exhibit No. 12 for identification shows the general balance sheet, income statement, and surplus account, for the years 1939, 1940, and 1941.

Q. Of The Willett Company, of Indiana, Incorporated?

A. Yes.

Mr. HARRY YOCKEY. We offer applicant's exhibit No. 12 for identification, in evidence.

Mr. EGGERS. Is there any objection?

Mr. CLARDY. Your Honor, will you withhold your ruling on this exhibit until we have had an opportunity to cross examine?

Mr. EGGERS. Very well. There will be no ruling on the offer in evidence of applicant's exhibit No. 12 at this time.

Mr. HARRY YOCKEY. That is agreeable.

Mr. EGGERS. Is there anything further on direct?

197 Mr. HARRY YOCKEY. Yes.

By Mr. HARRY YOCKEY:

Q. Now, Mr. McArdle, has the applicant complied with the rules and regulations of the Interstate Commerce Commission in the operation of its present 25 routes, as far as it knows?

A. Yes.

Q. And will it be the intention of the applicant to continue to comply with those rules and regulations if and when a new certificate may be granted over the seven routes?

A. Yes.

Mr. HARRY YOCKEY. Now, if the Board please, I think I am through with Mr. McArdle on direct, but may I have just two or

three minutes here to consult with my colleagues, to be sure that nothing has been overlooked.

Mr. EGGERS. Yes, certainly. We will suspend for just a moment, gentlemen.

(A short intermission followed.)

Mr. EGGERS. Is that all, Mr. Yockey?

Mr. HARRY YOCKEY. That is all we have with Mr. McArdle on direct; yes, your Honor.

Mr. EGGERS. Cross examine.

Cross examination by Mr. ANDERSON:

Q. Mr. McArdle, let me direct your attention first to applicant's exhibit No. 3.

A. All right.

198. Q. Will you get that, and have it before you, please.

A. I have it.

Q. That is the exhibit in which you set forth your routes, and your Interstate Commerce Commission numbers or designations.

A. Yes, sir.

Q. Now, you have been asked some questions about that exhibit, and I would like to ask you whether or not each of those authorities—or rather, strike that out, please. Are the authorities in each of these cases under the first six numbers, granted, and final?

A. We have certificates to cover them.

Q. All right.

A. And I presume they are final.

Q. You would presume they are final—

A. Yes.

Q. Since you have the certificates?

A. I would assume so.

Q. All right. Now, will you please state to the Joint Board and the Examiner whether or not each of those certificates contains a restriction limiting you to prior and subsequent movements by rail?

A. No.

Q. What ones do?

A. Well, now, I will have to get them out and look at them before I can answer that question.

199. Mr. CLARDY. Keep your voice up a little bit, will you, please, Witness. We cannot hear you down here.

Mr. ANDERSON. He says he will have to look them up to see.

Mr. CLARDY. He said something, and I am interested in what he said. Let me hear it again, please, Mr. Reporter.

(Answer read.)

By Mr. ANDERSON:

Q. Can you answer the question now?

A. Certificate 2815, Sub 3—

Q. 2815, Sub 3?

A. Yes.

Q. Yes.

A. Dated June 30th, 1941, of which I hold the original certificate in my hand, form C 11.1, bearing that date: the restrictions contained therein, on page 3, are four in number.

Q. Would you mind just reading those into the records, please.

A. No. 1: the service to be performed by said carrier shall be limited to service which is auxiliary to or supplemental of rail service of The Pennsylvania Railroad Company. No. 2: said carrier shall not serve any point not a station on line of railroad. At this point let me call your attention to the fact that the Commission in its order, designated that when the railroad is mentioned, it means The Pennsylvania Railroad.

Q. Yes, we understand that.

A. All right. No. 3: no shipment shall be transported 200 by said carrier as a common carrier by motor vehicle between any of the following points, or through, or to, or from more than one of such points, namely, Indianapolis, Terre Haute, and Chicago, Illinois. No. 4: all contractual arrangements between such carrier, the railroad and the American Contract & Trust Company, shall be reported to the Commission, and shall be subject to revision, if and as the Commission may find it to be necessary, in order that such arrangements shall be fair and equitable to the parties.

Q. Now, are those all of the restrictions that are contained in that particular authority?

A. Well, there is also the further qualification as to the number four restriction, as follows: such further specific conditions as the Commission in future may find it necessary to impose, in order to restrict that carrier's operations to service which is auxiliary to or supplemental of rail service. That, I think, covers the description.

Mr. HARRY YOCKEY. Those are the four restrictions: yes.

Mr. ANDERSON. All right.

Mr. HARRY YOCKEY. Might I interrupt with a suggestion, your Honor?

Mr. EGGERS. Just a moment. Is it your intention to go through each of these certificates, now, Mr. McArdle?

The WITNESS. He asked me to.

Mr. ANDERSON. Yes.

201 Mr. EGGERS. Well, do you not know, without having to refer to each certificate, Mr. McArdle, whether or not they contain the same or similar provisions?

The WITNESS. Well, I just want to be sure.

Mr. EGGERS. Are you not that well acquainted with them?

The WITNESS. I am quite well acquainted with them, yes; but I just want to be very sure that I am telling the truth—

Mr. EGGERS. All right.

The WITNESS. In complete detail.

Mr. EGGERS. Go ahead, then.

Mr. HARRY YOCKEY. I was going to say, your Honor, I can state for Mr. Anderson just briefly what the certificates are or what they cover—if that is the information that he wants.

Mr. ANDERSON. I want to know specifically, and fully, and accurately, what the restrictions are in each of these authorities.

Mr. HARRY YOCKEY. Well, if you will shorten it any, I can give them to you, if you want me to do so.

Mr. ANDERSON. Well, if you will promise, Mr. Yockey, to give us an exhibit clearly setting that forth, why, then I will have no disposition to question him on them. That is all I want to know on that particular point.

Mr. EGGERS. Would that be possible?

202 Mr. HARRY YOCKEY. Oh, yes; it would be possible, your Honor; but I must make the observation that it seems rather strange that these men now want to go into all this detail, and they objected to my going into it.

Mr. ANDERSON. Not at all.

Mr. HARRY YOCKEY. Oh, yes; every time I mentioned the 25 routes, they objected.

Mr. ANDERSON. I think you are in error about that, Mr. Yockey.

Mr. EGGERS. I think that is correct. However, the exhibit has been accepted, and undoubtedly there will be cross examination on it. If you are willing to do that, though, Mr. Yockey—

Mr. HARRY YOCKEY. Oh, yes, I am willing.

Mr. EGGERS. When can you do that?

Mr. HARRY YOCKEY. I can tell them right now what it is, if they want to know.

Mr. ANDERSON. If you will submit it as an exhibit, that will be all right.

Mr. HARRY YOCKEY. All right.

Mr. EGGERS. Previous to the conclusion of the hearing?

Mr. HARRY YOCKEY. Yes.

Mr. EGGERS. Is that agreeable?

Mr. ANDERSON. That is all right.

Mr. EGGERS. All right.

Mr. CLARDY. Just so that the record will be correct, your Honor; I think that Mr. Yockey mistakenly used the plural

203 when he referred to "these men," because it has only been Mr. Anderson here. I have not asked a single question as yet, on any subject, of this witness; and I am not going to ask any on that subject even though you have opened it up by letting it in.

Mr. EGGERS. All right.

Mr. ANDERSON. You will supply that to us, then, will you, Mr. Yockey?

Mr. HARRY YOCKEY. Yes, sir. I will make a note of it right here. I will get it for you.

Mr. ANDERSON. Thank you.

By Mr. ANDERSON:

Q. Now, Mr. McArdle, you have answered in response to two or three questions stated differently but to the same effect, that you propose to haul only for The Pennsylvania Railroad Company. Just what do you mean by that?

A. Repeat that question, please.

Mr. ANDERSON. Will you read it?

(Question read.)

The WITNESS. I don't know what you mean.

By Mr. ANDERSON:

Q. Well, I think I can understand your position, Mr. McArdle, because I think it is obvious. But what I mean is this: you are going to haul the freight of everybody that is offered to you, are you not?

A. No.

Q. Well, whose freight are you not going to haul? For instance, in the city of Fort Wayne, Indiana, whose freight, 204 if it is offered to you, would you not haul; the freight of the Bowser Tank Company, or who?

A. The only freight that we would haul on these seven new routes out of Fort Wayne, would be freight that would be given to us by The Pennsylvania Railroad.

Q. All right. But The Pennsylvania Railroad Company has a solicitor in Fort Wayne, has it not—or a solicitor that makes Fort Wayne?

A. I believe so.

Q. And he solicits business generally from all of the industries, businesses, and shippers there, does he not?

A. I believe so.

Q. Yes. And he would accept freight from the Bowser Tank Company, or he would accept freight from any citizen, shipper, or firm in Fort Wayne, would he not?



A. Undoubtedly.

Q. And likewise The Pennsylvania Railroad would do the same thing in Kalamazoo, would it not?

A. I presume so.

Q. All right. Now, then, if the Bowser Tank & Pump Company of Fort Wayne, Indiana, was solicited, as you say they would be, and will be, by a Pennsylvania Railroad solicitor, and was asked for freight going to Kalamazoo, Michigan, and it was offered to them, they would take it, would they not?

Mr. HARRY YOCKEY. Well, now, just a moment, I want to object, if the Board please, to counsel going into any cross examination of this witness on what The Pennsylvania Railroad would or would not do. Mr. Christie is here to testify for The Pennsylvania Railroad. This gentleman is not in the employ of the railroad. He has no minute knowledge as to what those solicitors do; I did not ask him any questions along that line on direct examination.

Mr. ANDERSON. If your Honor please, I am getting directly, now, to The Willett Company.

Mr. EGGERS. Overruled.

Mr. HARRY YOCKEY. No, you are asking him now about The Pennsylvania Railroad Company.

Mr. EGGERS. Off the record.

(Discussion outside the record.)

Mr. EGGERS. Back on the record.

By Mr. ANDERSON:

Q. Now, having solicited business of that kind, if it were then offered to The Willett Company by The Pennsylvania Railroad, it would be accepted, would it not?

A. Yes.

Q. And transported between Fort Wayne, Indiana, and Kalamazoo, Michigan, wholly by motor truck?

A. Probably.

Q. Well, then, Mr. McArdle, how would that service be any different than the service of XYZ Motor Express, operating between Fort Wayne and Kalamazoo?

206 Mr. HARRY YOCKEY. Well, now, just a moment. I want to object to that, your Honor, as not being a part of the issues involved in this case, as to whether there is one carrier, or whether there are 50 carriers, or how other motor carriers may operate—

Mr. ANDERSON. Well, now—

Mr. HARRY YOCKEY. Let me finish.

Mr. ANDERSON. Go ahead.

Mr. HARRY YOCKEY. As to how they may operate has nothing to do at all with this case.

Mr. ANDERSON. All right. Now then—

Mr. EGGERS. Let Mr. Yockey finish.

Mr. HARRY YOCKEY. This is solely an operation of the type that has been described here, which is hauling Pennsylvania Railroad freight.

Mr. ANDERSON. Yes, we understand.

Mr. HARRY YOCKEY. They are not in competition with any independent operators, this company is not in competition with any independent operators at all; and the Commission has so held that it has no jurisdiction to go into the question of whether or not this railroad company shall employ private motor carriers, subsidiaries, or separate motor carriers, independent motor carriers.

Mr. EGGERS. Just a moment, now, gentlemen. I would like to ask you, Mr. Yockey: what do you consider to be the real  
207 issue in this case. What are you trying to prove here?

Mr. HARRY YOCKEY. The real issue in the case, your Honor, and the only issue in this case, is the question as to whether or not there is a need for The Pennsylvania Railroad to use this particular carrier to improve its service. It is not a new service, self-declared; it is only a service by which the railroad company is attempting to improve its service.

Mr. EGGERS. In other words, then, do I correctly understand your point to be that it is a public convenience and necessity proposition?

Mr. HARRY YOCKEY. It is public convenience and necessity, yes; the question is as to whether or not public convenience and necessity go to their improving their service, and improving their service with this particular type and kind of carrier, and not just with anybody that may want to render the service. As to service by somebody the Commission has no jurisdiction over, as the Commission has held repeatedly, that is not in issue in this case.

Mr. CLARDY. Your Honor, may I inquire, then, if Mr. Yockey means by that, that public convenience and necessity only insofar as The Pennsylvania Railroad is concerned, is the issue here?

Mr. HARRY YOCKEY. It is public convenience and necessity only insofar as the service of The Pennsylvania Railroad may be improved, within the sphere of the jurisdiction of the Interstate

Commerce Commission; and the Commission has no jurisdiction to determine in this case as to what truck line we  
208 might use, or what the service might be; and the Commission has repeatedly so held.

Mr. EGGERS. In other words—

Mr. ANDERSON. May I say—

Mr. EGGERS. Just a moment.

Mr. ANDERSON. Pardon me.

Mr. EGGERS. In other words, Mr. Yockey, if it can be proved here that The Pennsylvania Railroad Company will improve its service to the public by the granting of this application, then that alone is sufficient, and it should be granted; is that correct?

Mr. HARRY YOCKEY. Yes.

Mr. EGGERS. All right.

Mr. HARRY YOCKEY. And that is your public convenience and necessity.

Mr. CLARDY. May I inquire further of Mr. Yockey, then, your Honor, if he still further takes the position that if they show by their witnesses that the railroad company can improve its service by the granting of this authority, the Commission, then, is without any latitude at all in deciding the case, but must grant the authority?

Mr. HARRY YOCKEY. No; I am not saying that they must. I say that is a question for the Commission to determine upon the evidence.

209 Mr. EGGERS. All right, now, gentlemen. Let us proceed. Go ahead, Mr. Anderson.

Mr. ANDERSON. I was rather surprised at the statement that Mr. Yockey has just made, that it is a question of whether The Pennsylvania Railroad can improve its service, when he just got through objecting to my asking the witness about The Pennsylvania Railroad soliciting business. However, that is aside from the point. Going directly to the point of my question: I have merely asked the witness if there is any difference between the proposed service over these seven routes, and the existing service. He has talked about a difference in service, now; he has said that this is a case where it is purely a question of serving The Pennsylvania Railroad. Now, we certainly have a right to show just what the service is. We certainly have a right to go into the question of whom, actually, they are going to serve. We do not want this issue to be beclouded merely by reason of the fact that the traffic is going to be moved on Pennsylvania Railroad freight bills, or bills of lading, and is going to be solicited by Pennsylvania Railroad solicitors. Now, I submit, it is no different.

Mr. HARRY YOCKEY. If the Board please, may I just correct one statement that counsel made there?

Mr. EGGERS. Just a moment: Off the record.

(Discussion outside the record.)

Mr. EGGERS. Back on the record.

210 Mr. HARRY YOCKEY. Before you rule, your Honor, I would like to interpose another objection.

Mr. EGGERS. Very well.

Mr. HARRY YOCKEY. I object for the further reason that there is no testimony here that there is any difference between this operation of The Willett Company and any other company; that there is nothing in the record as to what the XYZ Motor Express service is, or what authority the XYZ Motor Express has; there is nothing in the record, in the way of a basis for comparison, and, even if there was something, it would still not be admissible.

Mr. EGGERS. I take your question to mean, Mr. Anderson, the ordinary run of common motor carriers.

Mr. ANDERSON. Yes.

Mr. EGGERS. The objection is overruled.

Mr. ANDERSON. Answer the question.

The WITNESS. Repeat the question, please.

Mr. ANDERSON. We will have the Reporter read it.

(Question read.)

A. Not knowing what the so-called XYZ Motor Express Company's schedules might be, I am not in a position to answer that question.

By Mr. ANDERSON:

Q. Then, I will ask you to assume, Mr. Witness, that the XYZ Motor Express operating between Fort Wayne, Indiana, 211 and Kalamazoo, Michigan, is a common carrier by motor vehicle of general commodities, authorized by the Interstate Commerce Commission over the same route that you are proposing here to operate over between those points; that they solicit freight generally, just as you have testified the Pennsylvania Railroad agents will, and they take freight from all who offer it; that they have equipment of the same kind as you, and their trucks are of the same make, even, and they operate daily. Now, will you tell us what difference, if any, there would be between your proposed service and that service.

Mr. HARRY YOCKEY. Well, now, just a moment. I want to object to that question unless there is added to it the additional element that the XYZ Motor Express Company that counsel is talking about, is the same kind of an operation that The Willett Company is, hauling nothing but railroad freight for a railroad company.

Mr. EGGERS. Overruled.

Mr. ANDERSON. Oh, no.

Mr. EGGERS. The objection is overruled.

Mr. HARRY YOCKEY. That is the only issue here.

Mr. ANDERSON. No.

Mr. EGGERS. The Board has ruled, gentlemen, and the objection is overruled. Answer the question.

By Mr. ANDERSON:

Q. The Chairman has ruled that you may answer the question, Mr. Witness.

A. The freight that is proposed to be handled on the 212 trucks of The Willett Company of Indiana, will move on bills of lading of The Pennsylvania Railroad, through the freight house of The Pennsylvania Railroad on the respective routes.

Q. And the freight of the XYZ Motor Express Company moves on the freight bills of the XYZ Motor Express Company; and that is the only difference, is it not?

A. As far as I know.

Q. All right. Now, this particular operation has also been referred to as a station-to-station operation, and you yourself said in answer to one of Mr. Yockey's questions, that it is a station-to-station linehaul operation.

A. Yes.

Q. Just what did you mean by that?

A. All of the operations that are conducted by The Willett Company of Indiana at the present time, and that are proposed to be conducted under the present application, are or will be between fixed termini, so to speak, and service all intermediate stations on The Pennsylvania Railroad, on a regular, daily schedule.

Q. All right. In other words, all that means is that you haul the freight from point to point; that is correct, is it not?

A. It means hauling freight from a Pennsylvania Railroad freight house, to a Pennsylvania Railroad freight house.

Q. Do you mean to say that you do not do any pickup and delivery work?

213 A. Not usually, with these trucks.

Q. Well, you say "not usually," but do you do any? You do perform pickup and delivery service direct, do you not—that is, the applicant, The Willett Company?

A. Yes.

Q. Why, of course you do. And you do it every day, do you not?

A. Yes.

Q. Yes, certainly.

Mr. CLARKE. Ask him if he would in this proposed operation also.

By Mr. ANDERSON:

Q. And you would in this proposed operation, would you not?

Mr. HARRY YOCKEY. Well, now, just a moment. I think, if the Board please, we are going too far into this pickup and delivery proposition. That is not involved in this case.



Mr. ANDERSON. We are simply trying to find out, your Honor, the nature of the business.

Mr. HARRY YOCKEY. I know, but there is no use in going into something if it is not involved here. The decisions are that that comes under part one of the Act. Now, they have held that service for a railroad comes under part one of the Act, and the Commission has no jurisdiction, under part two, so you are just simply wasting your time in going into that phase of the situation.

214 Mr. CLARDY. We desire to be heard at some length on that, if there is any doubt about it.

Mr. ANDERSON. Right.

Mr. EGGERS. Just a moment, now, gentlemen. Will you go back and read the question, please, Mr. Reporter?

(Question read.)

Mr. EGGERS. Will you go back and read the last three or four questions and answers, please?

(The record was read.)

Mr. BARKELL. Mr. Anderson, did I understand your question to refer to pickup and delivery service?

Mr. ANDERSON. Yes.

Mr. BARKELL. As far as this proposed operation is concerned?

Mr. ANDERSON. As far as the proposed operation is concerned, yes, your Honor.

Mr. EGGERS. We will hear a statement from counsel for protestants, in support of their point.

Mr. CLARDY. I suggested that question, your Honor, and I will tell you why, because if he is not allowed to go into it, you will have the same question come up with me a little later on, so I might as well state my position right here and now. The reason I want the question answered is, first of all, on the evidentiary phase, to demonstrate that this operation, taken in its

215 entirety, is exactly paralld to and identical with that being rendered by carriers already in the field, including the fact that they go directly to the door of the shipper in many instances, both for pickup and delivery. That is an integral part in proving the entire case, from the standpoint of the protestants, to demonstrate that the service is identical with that which can be rendered by the protestants, or many of them; and of course that ties in with the statement which has already been made, that while the service is there, and available, the only reason that it is not being used, even though it will fill the bill 100 per cent, is because of the arbitrary position taken by the railroad company, that it simply will not do business with anybody else, except its own child.

Mr. EGGERS. But what does that have to do, Mr. Clardy, with this application?

Mr. CLARDY. I will tell you, because pickup and delivery service at all of these points is an integral part of the service of any motor carrier; and merely because a railroad comes in here does not distinguish it from any other case that has ever been heard before.

Mr. EGGERS. But you do not have to prove that in any case, do you, Mr. Clardy?

Mr. CLARDY. Well, I should think we should. If we had any regard for the presentation of our case, we certainly would. In other words, to show that the shipper may get a door-to-door service, is certainly an integral part, in proving public  
216 convenience and necessity, and not the fact that in a case in which I had no part, because if I had, this question would have been raised, the Commission may at sometime or other have said that insofar as pickup and delivery service in certain communities is concerned—not all of them, if you please, but in certain communities—for certain purposes, it does not require the issuance of a certificate by the Commission, or that it is under part one; that does not change the fact that evidence dealing with it is competent, and on cross examination it is doubly so, to demonstrate that the imposing edifice that they are putting up here about this being totally different, a totally different service, is not true.

Mr. EGGERS. All right.

Mr. CLARDY. As I say, it is doubly competent on cross examination, even if it were not on direct examination.

Mr. EGGERS. Now, just a moment, gentlemen.

Mr. ANDERSON. Your Honor, my question—

Mr. EGGERS. Just a moment, please.

Mr. CLARDY. And incidentally, your Honor—

Mr. EGGERS. Just a moment.

Mr. CLARDY. This claimed station-to-station service—

Mr. EGGERS. Just a moment, please, Mr. Clardy.

Mr. CLARDY. Thank you.

Mr. EGGERS. We will give Mr. Yockey an opportunity to be heard.

217 Mr. HARRY YOCKEY. The law, if the Board please, in this particular situation is this—or rather, let me put it this way: this application which The Willett Company has filed here, is not for a service, including pickup and delivery service. The applicant already has the right to do that, without any application. The Commission in the Scott Brothers case, held that where service is performed, pickup and delivery service, for a railroad, if it is an exclusive service, it comes under part one of the Act, and the Commission has no jurisdiction under part two, to go into it.

Mr. EGGERS. Well, now, Mr. Yockey, let me ask you a question right there.

Mr. HARRY YOCKEY. Pardon me, your Honor. May I proceed just a little bit further, please, until I finish my statement on this particular point?

Mr. EGGERS. All right. Go ahead.

Mr. HARRY YOCKEY. Now, in compliance with that, your Honor, the applicant is already operating; as I told you in my opening statement, it is operating a pickup and delivery service into South Bend, Indiana—or rather, Grand Rapids, Michigan; and it is also doing so in Louisville, Kentucky, and it requires no authority to do that. Now, then, I only stated that for the purpose of giving a general idea of the operation. We have not come in here and asked for pickup and delivery service authority here; 218 we are not seeking that authority here. We have it. Now, then, they want to go into that phase of it, and it is not involved here; we have not sought it, and we are not asking authority for it.

Mr. EGGERS. Have you finished?

Mr. HARRY YOCKEY. Yes.

Mr. EGGERS. If you concede that public convenience and necessity is the question here involved, then would you concede that the protestants would be entitled to go into the question of pickup and delivery service?

Mr. HARRY YOCKEY. Why, no, your Honor. Public convenience and necessity of this particular type, or as to this particular operation, is involved here, yes, sir, but we do not have to get authority to perform pickup and delivery service, and the Commission does not have any jurisdiction to go into the question of pickup and delivery service under part two of the Act.

Mr. EGGERS. All right.

Mr. HARRY YOCKEY. Now, then—

Mr. EGGERS. Just a moment.

Mr. HARRY YOCKEY. Just because—have you had enough?

Mr. EGGERS. Proceed.

Mr. HARRY YOCKEY. I do not want to talk unnecessarily here, if you have heard enough.

Mr. EGGERS. Finish your statement.

Mr. HARRY YOCKEY. I was just going to add, your Honor, that just simply because somebody else is hauling for a 219 railroad or hauling for a carrier, or hauling for a steamboat, is no reason for going into that in this case. You cannot drag that into this case just because some other common carrier may want to do that. We are not in here for anything except a linehaul operation. That is all that we are seeking here.

Mr. CLARDY. Now, if I may—

Mr. EGGERS. Just a moment.

Mr. CLARDY. Before you rule, may I just point out one thing further, your Honor.

Mr. EGGERS. All right.

Mr. CLARDY. And that is this: I do not care what the Commission may or may not have decided in a thousand other cases. That was dragged in by the ears, by counsel for the applicant himself, when he asked the question "Is this going to be a station-to-station service?" Now, are we going to be denied the right to prove by their own witnesses, your Honor, that that is not the true situation? We are being denied that right if we are not allowed to cross examine on that proposition.

Mr. EGGERS. Now, just a moment, please. I think we have sufficient argument on the record. The objection is overruled.

Mr. ANDERSON. All right. Will you answer the question?

The WITNESS. You will have to give it to me again.

Mr. ANDERSON. Read it, please.

(Question read.)

220 A. Not in the operation of linehaul trucks, no, sir.

Mr. ANDERSON. I did not ask you anything about the operation of linehaul trucks. I move to strike the answer out. I would like to have an answer to my question.

Mr. HARRY YOCKEY. Just a moment. I do not think the Board is listening.

Mr. EGGERS. Read the answer, please.

(Answer read.)

Mr. ANDERSON. I did not ask him anything about that, your Honor. I asked him if he would perform pickup and delivery service in this proposed operation, and he is trying to evade my question.

The WITNESS. No, I am not.

Mr. EGGERS. Can you answer the question?

The WITNESS. Well—

Mr. ANDERSON. And answer it yes or no.

The WITNESS. We do pickup and delivery work now in Grand Rapids.

By Mr. ANDERSON:

Q. And would you in the proposed operation?

A. (No answer.)

Q. You can answer that question with yes and no, and you know you can.

A. No.

Q. You would do no pickup and delivery service?

A. No.

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By Mr. HARRY YOCKEY:

Q. You are talking about the proposed operation now?

A. Yes.

By Mr. ANDERSON:

Q. Yes, in the proposed operation.

A. Right.

Q. Then the proposed operation is not to be operated, as you told your counsel, Mr. Yockey, like the existing service over the other 25 routes, is it?

A. Yes, it is.

Q. (Continuing.) Because you do pickup and delivery service there, do you not?

A. No.

Q. For The Pennsylvania Railroad?

A. No, not in linehaul, we do not do pickup and delivery.

Mr. ANDERSON. Now, Mr. Witness, I did not ask you anything about that. I insist that you answer my question. You know that I did not ask you anything about linehaul.

Mr. HARRY YOCKEY. Now, just a moment. If the Board please, I object to this attitude that Mr. Anderson is taking in his cross-examination.

Mr. ANDERSON. All right.

Mr. EGGERS. I think, Mr. Yockey, that some of these questions could be answered more directly by the witness. I am not ready to say yet that the witness is trying to evade any of the questions; I am not sure that he is, and I will not accuse him of it; but I do not understand why some of these questions are not answered more directly.

222

By Mr. HARRY YOCKEY:

Q. Your answer was "Not in linehaul operation", was it not?

A. Yes.

Mr. HARRY YOCKEY. There you are.

Mr. EGGERS. But that was not the question.

Mr. HARRY YOCKEY. Yes, that was the very question.

Mr. ANDERSON. No, that was not the question at all, Mr. Yockey. The word "linehaul" was not in my question.

Mr. HARRY YOCKEY. Well—

Mr. ANDERSON. I did not use that word at all.

Mr. HARRY YOCKEY. All right.

Mr. ANDERSON. I merely asked the witness about pickup and delivery service, and I insist on an answer to my question.

Mr. HARRY YOCKEY. And he will answer you.

Mr. ANDERSON. Answer my question, then, Mr. Witness.

The WITNESS. Repeat the question.



Mr. ANDERSON. Will you read it to him, please.

(Question read.)

A. (No answer.)

By Mr. ANDERSON:

Q. I will ask you again, Mr. Witness: does The Willett Company of Indiana, Incorporated, as it is operating at the present time over the 25 routes in which it is engaged, or over  
223 which it is operating, do any pickup and delivery service?

A. Yes.

Q. And in the proposed operation, you would do the same; that is, you would do some pickup and delivery service wherever it was required, would you?

A. Only at those stations where there are no freight agents.

Q. How is that?

(Answer read.)

By Mr. ANDERSON:

Q. And where there were freight agents—that is, you mean to say, where you had an arrangement with a local man—that is, where The Willett Company had an arrangement with a local man, that you call your freight agent, he would do it?

A. No, sir; we do not have any arrangements with local freight agents.

Q. All right. Then, where would there be any instance where you would not do pickup and delivery service?

A. Where there is an existing pickup and delivery contractor.

Q. Oh, yes. In other words, in a city like Fort Wayne, which is so big, and has so many industries, if you did not chose to do your own pickup and delivery service, you would contract with some local cartage company to do it, would you not?

A. No.

Q. Well, then, how would you do it?

A. We would not contract with anybody to do pickup and delivery.

224 Mr. HARRY YOCKEY. Now, just a moment. Now, are you talking about The Willett Company or The Pennsylvania Railroad Company, or who? This witness is an officer of The Willett Company.

Mr. ANDERSON. And I am talking about The Willett Company of which he is an officer.

Mr. HARRY YOCKEY. All right.

By Mr. ANDERSON:

Q. What is your answer?

A. I say, we would not contract with anybody to do pick-up and delivery.

Q. Then you would have The Pennsylvania Railroad do it; would you not?

A. No.

Q. Well, then, who would do it?

A. We would have nothing to do with it.

Q. Well, now; let us see. Assume that the Bowser Tank & Pump Company, of Fort Wayne, Indiana, had a big gasoline tank, which constituted half a truckload, to go to Kalamazoo, Michigan, and this proposed service had been granted, and the Pennsylvania Railroad agent had solicited the business by motor-truck by way of The Willett Company, between Fort Wayne and Kalamazoo; and the Bowser Company said, "Now, we have this tank to move, and it must go to Kalamazoo, and it must be picked up here at our place", and it was offered to your line, and you took it, as you said you would, and as you are holding yourselves out to do: Now, tell us just exactly how that would be moved.

A. It would be picked up by a local pick-up and delivery truck, and brought to the freight house.

Q. By a local pickup and delivery truck?

A. Yes.

Q. Arranged for by whom?

A. The Pennsylvania Railroad.

Q. By The Pennsylvania Railroad?

A. Yes, sir.

Q. And brought to the freight-house of The Willett Company?

A. Right.

Q. Is that what you mean?

A. No, sir. Just a moment, now. It would be brought to the freight house of The Pennsylvania Railroad.

Q. To the freight house of The Pennsylvania Railroad?

A. Yes, sir.

Q. And then The Willett-Company would pick it up there?

A. Yes, sir.

Q. And take it to Kalamazoo?

A. Yes, sir.

Q. And then what would The Willett Company do with it—

A. Deliver it to the freight house.

Q. When it got it to Kalamazoo?

A. Deliver it to the freight house at Kalamazoo.

Q. And then it would be delivered from there to the consignee, would it?

A. By the railroad.

Q. By the railroad.

A. Yes.

Q. All right. Now, in any instance would that be done directly over the proposed routes, without the intervention of—or rather, strike that out. Would that be done directly by The Willett Company?

A. (No answer.)

Q. In any instance, would it ever be done direct, from the applicant to the consignee?

A. Not to my knowledge.

Q. Are you willing to say to this Joint Board and the Commission that it is not done at the present time?

Mr. HARRY YOCKEY. Well, now, just a moment.

Mr. ANDERSON. All right.

Mr. HARRY YOCKEY. I object to that.

Mr. ANDERSON. To save time, I will withdraw the question.

By Mr. ANDERSON:

Q. Let us take another place; let us take a movement from Grand Rapids to Fort Wayne—or between Fort Wayne and Grand Rapids—or rather, let us say, between Kendallville, Indiana, and Grand Rapids. Say you have got a movement that originates at Grand Rapids, Michigan, and it is business that is solicited 227 by The Pennsylvania Railroad solicitor; and the solicitor tells the shipper that the shipment can move in by truck to Kendallville, and the shipper says, "All right, you may have the business, and the shipment is made, and it is carried by The Willett Company. How would that be handled?

A. You are assuming, now, that it moves by truck from Grand Rapids—

Q. I am assuming that the authority has been granted, and that you have the right to do all that you are seeking to do, and that you are under that authority, taking the movement originating at Grand Rapids, direct to Kendallville, Indiana. I want to know how it would be handled.

Mr. BARKELL. To clarify that question for me, Mr. Anderson, do you mean from a plant in Grand Rapids, or from the station in Grand Rapids?

Mr. ANDERSON. I mean from the plant of any shipper in Grand Rapids.

Mr. EGGERS. Answer the question.

A. Our own pick-up and delivery truck would pick up the freight at the place of business of the consignor at Grand Rapids, under a contract with the railroad for pick-up and delivery work, and take it to the freight house, and if the railroad so chose, if the operation was so arranged that we could operate and did operate by truck from Grand Rapids to Kendallville, it would be loaded into a roadhaul truck and handled to Kendallville, and

223 dropped off at the freight house of The Pennsylvania Railroad at Kendallville.

By Mr. ANDERSON:

Q. And you would so choose, if this authority was granted, because that is what you propose to do, handle less than truckload freight between those points, do you not—specifically, between Grand Rapids, Michigan, and Kendallville, Indiana?

A. Yes.

Mr. BARKELL. Now, just a moment.

By Mr. BARKELL:

Q. Supposing you were operating a full truckload at any one of these points. Would that make your operation any different?

A. Well, our arrangement with the railroad applies on the basis of less than carload freight.

Q. Well, truckload, or carload—

A. Less than carload shipments.

By Exam. HARRISON:

Q. Well, are there not shipments, though, where a less than carload shipment would be a truckload?

A. Oh, I imagine that there might be, but I have not seen one.

Q. All right. Now, you go ahead and tell us what you would do, because we are going to have the facts developed in this case, if I have to develop them myself.

A. What we are doing now, do you mean?

Q. What you are going to do, what you are proposing to do in this operation.

229 A. We propose to do the same thing on these new routes, these seven new routes, that we are now doing on our present 25 routes. We can take any one of them that is now in operation, that you want to discuss, for the reason that we are actually doing it. For example, take Fort Wayne to Butler, Indiana, which is a comparatively short route.

Mr. HARRY YOCKEY. Well, now, just a moment. May I interrupt to suggest to Mr. Clardy that he sit down. He is disturbing the witness.

Mr. CLARDY. I have seen no evidences of it.

Mr. HARRY YOCKEY. I think the witness should be accorded ordinary courtesy while he is testifying.

Mr. CLARDY. If I may go off the record for a moment, your Honor, I will tell you why I am not going to sit down.

Mr. HARRY YOCKEY. Tell us on the record.

Mr. EGGERS. Off the record.

(Discussion outside the record.)

Mr. EGGERS. Back on the record.

By Mr. BARKELL:

Q. Mr. McArdle, I assume that it is possible for you to get a full truckload at any one of these points, that possibly would be less than a carload?

A. Yes.

Q. Now, I would like to know what that operation would be.

A. Well, if you will name a point—

Q. Take some small place, where you do not have any pick-up and delivery service.

230 A. Well, if you will name me the point, I will be glad to try to answer your question.

Exam. HARRISON. Name a small Indiana point and a small Indiana point.

Mr. CLARDY. Do you not think, your Honor, that the witness would probably know about those places better than we do?

Exam. HARRISON. Yes, he knows, but then, the question should be specific.

Mr. CLARDY. If he does not know, he ought to know at any rate.

By Mr. BARKELL:

Q. Well, as an example, how about Lake City? That is a small town, I believe.

A. Lake City?

Q. Yes, on a spur line up in the northern part of Michigan.

A. A less than carload shipment that would be picked up at Lake City, that would be offered us at Lake City, that would fill a truck, that would make a truckload, would be brought to Cadillac.

Q. Where would it be picked up at Lake City?

A. At the freight house.

Q. Right at the plant, or—

A. At the freight house.

Q. How would that truckload get to the freight house in the first instance? Would the shipper bring it there?

231 A. Oh, they probably have a local pick-up and delivery man at Lake City, like they have in a great many places.

Q. There would be a local pick-up man who would pick it up, in perhaps any one of these larger communities, but you do not have that arrangement with anybody in the smaller communities; though, do you?

A. Who?

Q. Willett.

A. The Willett Company of Indiana?

Q. As far as Lake City is concerned, for instance—yes.

A. Do you mean The Willett Company of Indiana?

Q. Yes.



A. We have no arrangements for pick-up and delivery; no, sir.

Q. How about the railroad?

A. Oh; the railroad, I assume, would have pick-up and delivery arrangements with thousands of carriers, in every size town in the country where it operates, even where they haul with horse and wagon.

Q. Then, if there was a full truckload of freight to go to Kendallville, Indiana—using that same illustration again—at a certain point, a local pick-up man would pick up that truckload.

A. Yes.

Q. Bring it over to the dock.

A. Yes.

Q. Unload it there.

232

A. Yes.

Q. And put it onto your truck.

A. It would be loaded onto our truck, when the truck arrived; yes, sir.

Q. And then the same operation, only in reverse, would take place at the other end of the line; is that correct?

A. Yes, sir; except that in that instance, we would perform the pick-up and delivery work ourselves.

By Exam. HARRISON:

Q. Mr. McArdle, about the only service that you propose to perform—that is, that The Willett Company of Indiana proposes to perform, is from the railroad station, or the freight house of The Pennsylvania Railroad, to the freight house of The Pennsylvania Railroad at destination; is that correct?

A. Yes, sir.

Q. That is the only service that The Willett Company intends to perform.

A. Why, when you refer to “at destination,” do you mean, to a point on the railroad, or do you mean between point A and point B—just how do you mean that?

Q. Well, what do you propose to do? I am trying to find out what you propose to do in your operation.

A. Well; we have submitted schedules here that purport to show in a broad way, the routes that are to be covered, Fort Wayne to Kalamazoo: The freight will be picked up beginning at 9

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o'clock a. m.—

Mr. BARKELL. The witness is not answering the question.

Exam. HARRISON. No.

Mr. BARKELL. This is just a waste of time, unless the witness answers the questions directly.

**Mr. HARRY YOCKEY.** If the Joint Board and the Examiner please, may I make a statement here, which I think will clarify the situation?

**Exam. HARRISON.** Yes.

**Mr. HARRY YOCKEY.** I think possibly there is a little confusion here.

**Mr. EGGERS.** Go ahead.

**Mr. HARRY YOCKEY.** Still referring to the questions which you have just been asking Mr. McArdle, as to what they intend to do in the pay of pick-up and delivery service: if, for instance, a less than carload shipment is turned over to The Willett Company by the railroad company, let us say, at Lake City, which is destined for one of the ordinary towns along the line of railroad that has a freight agent in it, such as practically all of them have, that freight will be delivered on the platform of the railroad. If, however, the shipment is destined to one of the small towns along the road where there is no freight agent—

**Exam. HARRISON.** That is what I had in mind.

**Mr. HARRY YOCKEY.** Or where there is no freight platform in the particular small town, then under their arrangement—  
234      ment—or rather, under their authority they do deliver that particular shipment in a town where, as I say, there is no freight agent.

**Exam. HARRISON.** Well, then, where there is a freight agent in the town, the operation is a direct operation between the freight house of The Pennsylvania Railroad at the origin point, and the freight house of The Pennsylvania Railroad at the destination point; is that correct?

**Mr. HARRY YOCKEY.** Yes, your Honor, that is correct. Now, then, with respect to the other question that was asked of Mr. McArdle here, regarding a full truckload shipment; I think Mr. Christie can better testify regarding that, if he is asked, because he is more versed in the technique of the railroad, or the technical railroad terminology, regarding the difference between a less than carload shipment and a less than truckload shipment, and a carload shipment and a truckload shipment; and he will be glad to go into that, when we recall him to the witness stand, very thoroughly for you. Do you see what I mean?

**Mr. EGGERS.** Yes; and I just want to ask this question. If there is no freight agent at a particular station, or at two particular stations, say, then the operation is actually a door-to-door operation; is it not?

**Mr. HARRY YOCKEY.** No, your Honor, it is not. That is, it might be in a particular place, that The Pennsylvania Railroad would determine; but there are some of these nonagency stations where they do have a pick-up and delivery man.

235 Mr. EGGERS. I see. All right.

Mr. HARRY YOCKEY. But there are also some of those points where they do not have.

Mr. EGGERS. All right.

By Mr. EGGERS:

Q. Now, Mr. McArdle, you have heard the statement made just now by Mr. Yockey.

A: Yes.

Q. Do you in substance adopt that as your own statement?

A. Yes, sir; that is correct.

Mr. EGGERS. All right.

Mr. ANDERSON. Now, if the Board please, since Mr. Yockey has seen fit to testify, instead of the witness, I just want to say, since he has seen fit to put that statement into the record, that again this is just simply another attempt to obscure and becloud the situation here, because Mr. Yockey started out by referring to an instance where a shipment is offered to The Pennsylvania Railroad station agent, and I am not talking about that kind of a shipment at all.

Mr. EGGERS. You may develop further what you have in mind, from the witness, Mr. Anderson.

Mr. ANDERSON. All right. However, I think I am about finished with him, because he has testified with respect to the solicitation.

By Mr. ANDERSON:

236 Q. But the point is, Mr. McArdle, that if this certificate is granted, and you operate under the authority prayed for herein, due to the close cooperation concerning which you have testified, between The Pennsylvania Railroad and The Willett Company of Indiana, freight will be solicited at all points, or at all points where it is worth while on the proposed routes, will it not?

Mr. HARRY YOCKEY. Do you mean by that—

A. I don't know.

Mr. HARRY YOCKEY. Just a moment, please. Do you mean by that, by the railroad?

Mr. ANDERSON. I am sorry, but I would prefer to ask my own question.

Mr. HARRY YOCKEY. Well; then, I object to the question, if the Board please, unless counsel specifies in his question as to who is going to solicit the freight.

Mr. ANDERSON. I say, freight would be solicited for this operation—

Mr. HARRY YOCKEY. By whom?

237 Mr. ANDERSON. At all points. That is my question.  
Mr. HARRY YOCKEY. I object.

A. I don't know.

By Mr. ANDERSON:

Q. You do not know?

A. No, sir.

Q. Do you know that it would not be?

A. No.

Q. You do know, and you have so testified, that The Pennsylvania Railroad would have solicitors—do you not?

A. They have solicitors; yes, sir.

Q. And you know that they solicit business for The Willett Company, do you not?

A. No, they do not.

Q. They solicit business for movement, then, between points, point-to-point, or, using your own words, station-to-station, if you want to call it that, on these routes, do they not—or they would, would they not?

A. They would solicit freight for all points on The Pennsylvania Railroad.

Q. Certainly. And after they solicited the freight, and got it, it would move, if it were to move between any other points than the two key points which you have spoken of here, by motor vehicle, and the motor vehicle movement would be a movement by The Willett Company, handled by The Willett Company; that is right, is it not?

238 Mr. HARRY YOCKEY. Now, just a moment, counsel. Does your question go to less-than-carload freight only?

Mr. ANDERSON. Yes, less-than-carload freight only.

A. I am sorry, but I don't just understand that question. Will you be a little more specific?

By Mr. ANDERSON:

Q. Freight solicited by The Pennsylvania Railroad, moving, we will say, to make it specific, using these as illustrative points, between Kalamazoo, Michigan, and Fort Wayne, Indiana, would be moved by motor vehicle all the way, by The Willett Company, would it not?

A. Not necessarily.

Q. Less-than-carload freight—or less-than-truckload freight?

A. Not necessarily.

Q. All right. That is the way I understood Mr. Yockey's statement. Then where would it not move, or in what kind of instances would it not move by The Willett Company?

A. Where the volume of the freight, or the volume of the shipments, or the volume of the traffic out of a particular station, might enable it to move in a car direct to Fort Wayne.

Q. Do you mean to say, then, Mr. McArdle, that in addition to hauling carload shipments direct on the railroad, you are also going to haul less-than-truckload shipments on the railroad?

A. We don't haul anything on the railroad.

Q. I mean, The Pennsylvania Railroad. Do you know whether they are going to do that or not?

239 A. No.

Q. If that be true, that is a new aspect to this matter.

A. I don't know anything about it.

Q. Well, you know, do you not—

Mr. EGGERS. Just a moment, please, Mr. Anderson. What was that last answer, Mr. Reporter?

(Answer read.)

By Mr. ANDERSON:

Q. Well, you do know—

Mr. HARRY YOCKEY. Just a moment. Would you be good enough, please, Mr. Reporter, to go back and read the last three or four questions and answers?

(The record was read.)

Mr. HARRY YOCKEY. I think the record is confused. Counsel starts out talking about hauling carload freight, and then he talks about less-than-truckload freight—

Mr. ANDERSON. Just a moment.

Mr. HARRY YOCKEY. And that is not involved—that is, less-than-carload freight.

Mr. ANDERSON. You say less-than-truckload freight is not involved?

Mr. EGGERS. Off the record.

(Discussion outside the record.)

Mr. EGGERS. Back on the record.

Mr. ANDERSON. I will desist from any further questions along this line for the time being. I think I am about through.

240 Mr. EGGERS. Go ahead and finish.

By Mr. ANDERSON:

Q. Now, Mr. McArdle, I direct your attention to applicant's exhibit No. 5 here. Do you have a copy of that exhibit before you?

A. Yes, sir.

Q. You purport to show there the estimated monthly tonnage that would move between points on the proposed routes, do you not?



Mr. HARRY YOCKEY. Now, then, if the Joint Board please, I want to object to that. Counsel is now attempting to cross-examine Mr. McArdle on an exhibit that was introduced and prepared by Mr. Christie, the railroad witness. This man is not a railroad witness.

Mr. EGGERS. Sustained.

Mr. HARRY YOCKEY. So why try to cross-examine him on an exhibit that was introduced by another witness?

Mr. EGGERS. The objection has been sustained.

Mr. CLARDY. Well, of course, the applicant ought to know about it.

Mr. EGGERS. Well, you will have an opportunity to cross-examine Mr. Christie.

Mr. ANDERSON. That is all right. I would just as soon cross-examine Mr. Christie.

Mr. CLARDY. I am merely stating that if the applicant does not know its own business, it ought to.

Mr. HARRY YOCKEY. It is not a question of the applicant  
241 knowing the tonnage moving on The Pennsylvania  
Railroad.

Mr. EGGERS. Let us not discuss the matter any further, gentlemen. The objection has been sustained. Proceed.

By Mr. BARKELL:

Q. Do I understand you to say, Mr. McArdle, that you do not know how much business is moving over these routes?

A. Tonnage is not a factor in our arrangement.

Q. How is that again?

A. I say, tonnage is not a factor in our arrangement.

Mr. CLARDY. I am sorry, your Honor, but the witness is not talking very loudly. May I hear that last question and answer again, please.

(The record was read.)

Mr. EGGERS. Continue, Mr. Anderson.

Mr. ANDERSON. I think I have just one further line of questioning, your Honor, which I hope will be very brief.

Mr. EGGERS. Go ahead.

By Mr. ANDERSON:

Q. Mr. McArdle, you are in the trucking business.

A. Yes.

Q. And you have been for how many years, did you say?

A. With the applicant, six years.

Q. Six years with the applicant?

A. Yes.

242 Q. And you are familiar with every point on the proposed routes, are you not?

A. Yes, sir.

Q. Now, will you please tell the Commission, if you will, how many other motor carriers, other than The Willett Company, are operating, serving Grand Rapids, or between Fort Wayne and Grand Rapids?

Mr. HARRY YOCKEY. Well, now, just a moment. I want to raise the same objection to that, if the Board please, that the operations of other truck lines, as to how many there are, and so forth, are not involved in this case. I object on that ground.

Mr. EGGERS. Overruled.

Mr. HARRY YOCKEY. And I object to it on the further ground that it is not proper cross-examination. I did not go into any of that line of questioning with this witness on his direct examination.

Mr. EGGERS. Overruled.

By Mr. ANDERSON:

Q. Do you know how many there are?

A. No, sir.

Q. And you never made any effort to find out, did you?

A. No.

Mr. ANDERSON. That is all.

Mr. EGGERS. I think we will take a short recess, before we proceed with further cross-examination.

(A short recess was taken.)

243 Mr. EGGERS. Come to order, please, gentlemen. It is now 5:15. We are going to finish the cross-examination of Mr. McArdle, and then we are going to adjourn for the day, and reconvene not later than 8:30 a. m. tomorrow morning. I think by running a little later tonight, and starting earlier in the morning, we can accomplish much more than we could get in, in a night session, unless we spend several hours at it. As far as a session on Thursday is concerned, we do not need to discuss that now, but we will wait until tomorrow, and see what progress we make. It may be that we will be able to move along fast enough so as not to have a session on Thursday. If necessary, we can have a session tomorrow night.

Mr. HARRY YOCKEY. If your Honor please, may we discuss this matter a little further off the record?

Mr. EGGERS. Yes.

(Discussion outside the record.)

Mr. EGGERS. Back on the record. Proceed with the cross-examination.

Mr. MOBERLY. I have a few questions, please.

By Mr. MOBERLY:

Q. Mr. McArdle, do you have in mind the statement which was made on the record here by your attorney, Mr. Yockey, relative to the operations which may be conducted over these proposed routes?

A. (No answer.)

Q. I refer to the statement with respect to which you  
244 stated, in response to a question put to you by the Chairman, that you accepted as your own.

A. Oh, vaguely now; yes.

Q. In the situation which was outlined by Mr. Yockey there, do you—and when I say “you”, of course I am referring to your company, The Willett Company, you understand.

A. Yes.

Q. Intend to conduct a pick-up and delivery service in conjunction with your line-haul movement at the points which The Pennsylvania Railroad may determine to be points where such pick-up and delivery service is necessary?

A. No.

Q. Well, now, in the statement which he made, did not Mr. Yockey say that the pick-up and delivery service would be rendered wherever The Pennsylvania Railroad determined that the service was necessary, or was needed?

A. No.

Mr. HARRY YOCKEY. I did not say that.

The WITNESS. No, sir.

Mr. MOBERLY. Well, of course, the record will have to speak for itself, but that is the way I understood your statement.

Mr. HARRY YOCKEY. No; I did not say that they would do it, wherever it was necessary or needed. I said that there were certain instances where they desired the work to be done.

245 Mr. MOBERLY. And that it would be up to The Pennsylvania Railroad to determine what points those were?

Mr. HARRY YOCKEY. That is correct, and to make a request on The Willett Company, to do the work.

Mr. MOBERLY. Well, that is just exactly the question that I asked, Mr. Yockey.

Mr. HARRY YOCKEY. Well, I did not understand the question that way.

The WITNESS. Will you repeat the question.

Mr. HARRY YOCKEY. Read it.

Mr. MOBERLY. I will restate it.

By Mr. MOBERLY:

Q. My question, Mr. McArdle, is this: Will not The Willett Company perform a pick-up and delivery service at any point along these routes, where The Pennsylvania Railroad desires that service to be performed—

Mr. ANDERSON. And requests it.

By Mr. MOBERLY:

Q. And requests that the service be performed by The Willett Company?

A. The Willett Company of Indiana will pick-up and deliver freight locally, as it now does, for The Pennsylvania Railroad, at any point at which the arrangement is made.

Q. And that service will be conducted at points where The Willett Company is conducting a line-haul operation; is that not true?

A. Repeat that.

246 Mr. MOBERLY. Read it, please.

(Question read.)

A. I don't quite understand the question.

By Mr. MOBERLY:

Q. For example, now, if the operation—

Mr. BARKELL. Just a moment. Are we just going to waste some more time here, now?

The WITNESS. No, sir. I am sincere in that. I really do not know what his question means.

Mr. HARRY YOCKEY. I do not think the question is clear at all.

Mr. ANDERSON. The question is very explicit.

The WITNESS. Will you repeat it once more, please.

Mr. MOBERLY. To clarify it, I will put it in the form of an example.

The WITNESS. O. K.

By Mr. MOBERLY:

Q. If the operations proposed herein are authorized by the Interstate Commerce Commission, your company will perform a line-haul service from Big Rapids, Michigan to Kendallville, Indiana, will it not?

Mr. HARRY YOCKEY. Now, just a moment. Are those both points on the Pennsylvania Railroad?

Mr. ANDERSON. Yes.

Mr. MOBERLY. Yes; they both are, sir, as far as I can see.

Mr. HARRY YOCKEY. All right.

A. Do you mean, in one operation, would we haul from  
247 Big Rapids to Kendallville?

By Mr. MOBERLY:

Q. Yes.

A. No.

Q. All right. From Kalamazoo, Michigan, then, to Kendallville, Indiana, will your company perform a linehaul service?

A. If the freight is given to us by the railroad, we will, yes, sir.

Q. And if the railroad company asks your company to perform a pickup and delivery service at Kalamazoo, Michigan, you will perform that service, will you not?

A. Under an arrangement, a local arrangement covering pickup and delivery, yes, sir.

Q. And if you were performing such pickup and delivery service in Kalamazoo, Michigan, your trucks would pick up the freight at the door of the consignor in Kalamazoo, would they not?

A. Yes.

Q. And your trucks would then carry the freight in a linehaul movement to Kendallville, Indiana; that is true, is it not?

A. No.

Q. How?

A. It is not.

Q. What would be done with the freight, then?

A. City trucks, local pickup and delivery trucks, if we had a contract or agreement at Kalamazoo to perform that service for the railroad company, would pick the business up at the  
248 consignor's place of business and bring it to the freight house, and if The Pennsylvania Railroad so directed us to handle that by truck between Kalamazoo, Michigan, and Kendallville, Indiana, on one of our linehaul trucks, that would be done.

Q. The freight would move to Kendallville, Indiana, by Willett truck.

A. Yes.

Q. And then if you were requested by the railroad to perform pickup and delivery service at Kendallville, Indiana, your truck would deliver that freight to the door of the consignee, would it not?

A. Our local pickup and delivery truck, yes, sir.

Q. A truck owned by The Willett Company.

A. Our own local pickup and delivery truck, yes, sir.

Q. Now, in answer to a question that was put to you by Mr. Yockey, I believe that you stated that there would be no difference between the proposed service, if the authority is granted, and the service which your company is at the present time conducting over its existing authorized routes.

A. Yes.



Q. To that question I believe you answered: Yes.

A. Yes, sir.

Q. Is that right?

A. Yes.

Q. Now, Mr. McArdle, is it not true, that in the case of  
249 some operations that have been authorized by the Inter-  
state Commerce Commission to be conducted by The Wil-  
lett Company, there occurs this "prior and subsequent rail move-  
ment" restriction?

A. Yes.

Q. That is true, is it not?

A. Yes, sir.

Q. Then there would be a difference; would there not, Mr. Mc-  
Ardle, because in this proposed operation you are not proposing  
to accept any "prior and subsequent rail movement" restric-  
tion—are you?

A. That is correct.

Q. But that restriction does occur, as you say, in some of your  
other authorities.

A. Yes.

Q. Well, then, your answer should have been "No" to the ques-  
tion put to you by Mr. Yockey, should it not?

Mr. HARRY YOCKEY: Just a moment.

A. Yes.

By Mr. MOBERLY:

Q. That is, there is a difference.

Mr. HARRY YOCKEY: Just a moment, please, counsel. I object  
to the question as argumentative, your Honor.

Mr. MOBERLY: I want to get the matter straightened out, your  
Honor, just to get the record straight here, with respect to the  
authority that is sought here, and the existing authority.

250 Mr. EGGERS: I think the record is clear.

Mr. MOBERLY: All right.

Mr. HARRY YOCKEY: He has answered the question, anyway.

Mr. MOBERLY: I believe that is all I have.

By Mr. CLARDY:

Q. Witness, in this proposed extension operation, is there any  
point on any of the routes where you propose to establish a sep-  
arate terminal of your own?

A. A separate terminal?

Q. Yes, sir.

A. No.

Q. Is it proposed, instead, that you use the stations of The  
Pennsylvania Railroad Company as your docks?

A. No.

Q. What docks, or what terminal facilities, will you use, then?

A. We do not use any docks or terminal facilities.

Q. You are going to leave your trucks, then, out in the middle of the street somewhere, are you?

A. No.

Q. You are going to load your trucks off the railroad terminal docks, are you not?

A. Yes.

Q. Well, then, Witness, are you not just quibbling a little with me, when you answer that last question as you have?

Mr. HARRY YOCKEY. Just a moment.

A. (No answer.)

251

By Mr. CLARDY:

Q. As a matter of fact, Witness, do you not intend to use the docks of The Pennsylvania Railroad Company at each of these points as your own dock or terminal facilities?

Mr. HARRY YOCKEY. Just a moment. If the Board please, I object to counsel's remark about quibbling. Counsel asked this witness a question, and the witness answered it correctly. The mere fact that they go to a station of The Pennsylvania Railroad to get freight, does not mean that that is their dock, and it is not their dock.

Mr. CLARDY. Well, now—

Mr. HARRY YOCKEY. I object to the question.

Mr. CLARDY. I say, the witness was quibbling, in view of certain other matters that have occurred here, as well.

Mr. HARRY YOCKEY. No, he is not doing anything of the kind. You are the one who is doing the quibbling.

Mr. CLARDY. I am speaking of the experience that others have had, who were examining the witness previously.

Mr. HARRY YOCKEY. All right.

Mr. CLARDY. The experience that they had with him before I got to him.

Mr. EGGERS. Now, just a moment, gentlemen. What is before us? There is a question pending, I believe.

Mr. CLARDY. Yes, let us have the last question read, and we will see whether he was quibbling or not.

Mr. HARRY YOCKEY. Will you go back, please, Mr. Re-  
252 porter, and read the last two or three questions, since Mr. Clardy began to examine the witness.

(The record was read.)

Mr. EGGERS. You may answer that last question.

A. No, sir.

By Mr. CLARDY:

Q. By your last answer, then, Witness, are we to understand that you are not to use, or not intending to use, any dock or terminal facilities of anyone, anyplace, in this operation?

Mr. HARRY YOCKEY. Well, now, just a moment. I want to object to that question also, if the Board please.

Mr. EGGERS. On what ground?

Mr. HARRY YOCKEY. Mr. Clardy is not getting into the record the proper kind of questions, involving this operation. He is asking him now as to whether or not those docks are going to be their docks, that is, the docks of The Willett Company—

Mr. EGGERS. No.

Mr. CLARDY. No.

Mr. HARRY YOCKEY. The witness said "No."

Mr. CLARDY. That was not the question.

Mr. EGGERS. As I understand it, he just asked him whether or not they are going to use them.

Mr. HARRY YOCKEY. I understand him to ask the witness if they were going to use them as their own, and he said "No."

Mr. EGGERS. Overruled.

253 The WITNESS. What is the question now?

Mr. CLARDY. Will you read it, please?

(Question read.)

A. That is correct.

By Mr. CLARDY:

Q. Well, then, Witness, were you not incorrect a while ago here when you said that you intend to load and unload freight at the railroad docks exactly as any other trucking company would do?

Mr. HARRY YOCKEY. Now, just a moment. I want to object to that question also.

Mr. EGGERS. Perhaps we can shorten this, if I may ask him a question at this point.

Mr. CLARDY. Certainly.

By Mr. EGGERS:

Q. Mr. Witness, what are you going to do with this freight when it arrives at a certain destination?

A. We are going to back up to the Pennsylvania freight house, and give it to them. It is their property.

Q. At their dock?

A. Yes.

254 Q. The dock of the railroad company.

A. It is their dock, not ours. We don't lease it from them, or anything of that sort.

Q. But you are going to use it, are you not—

A. No.

Q. To put the shipments on the dock?

A. But it is the freight of The Pennsylvania Railroad all the time.

Q. I understand.

A. From the time we get it until the time we deliver it. We pick it up at their dock, and we deliver it at their dock.

Mr. HARRY YOCKEY. Counsel is asking a different question, now. He is asking if it is not their dock, and it is not their dock. He is asking if they are their terminal facilities, and they have no terminal facilities.

Mr. CLARDY. I may appear to have a very limited command of the English language, but the words that I use are all simple, and easily understandable.

Mr. EGGERS: I think the question that was propounded to the witness by Mr. Clardy last, is still unanswered. Will you read the question, please, Mr. Reporter.

(Question read.)

Mr. HARRY YOCKEY. Now, your Honor, I want to object to that question on the ground that he has in there "exactly as any other truck company would do." Now, he has testified that  
255 they haul freight to and from those docks, that they deliver it there, and pick it up there—

Mr. CLARDY. I did not say anything about that in my question.

Mr. EGGERS. Overruled.

By Mr. CLARDY:

Q. Can you answer my question, Witness?

A. Repeat it, please.

Mr. CLARDY. Will you go back once more, Mr. Reporter, and read the question back to him.

(Question again read.)

A. We will load and unload freight at the docks of The Pennsylvania Railroad Company, yes, sir.

By Mr. CLARDY:

Q. You have been in the trucking business, you said, for quite a number of years, I believe.

A. Yes.

Q. And you know how common motor carriers generally use dock facilities that belong to others, do you not?

A. Yes.

Q. Is there any difference in the use that you propose to make of the facilities of The Pennsylvania Railroad Company, and particularly the docks of The Pennsylvania Railroad Company.

and the use made of the docks of shippers and other carriers, by common motor carriers generally?

A. Very definitely, yes.

Q. What is the difference?

256 A. We maintain no terminals, we maintain no dock personnel, we maintain no despatchers for the trucks, and as far as the dock facilities are concerned, we pick up freight that is delivered to us by The Pennsylvania Railroad at a particular dock, and deliver it to The Pennsylvania Railroad at another particular dock.

Q. Now, Witness, when a common motor carrier comes up to the dock of a shipper, is there any difference in the way that that carrier handles the freight at the dock of the shipper—

Mr. HARRY YOCKEY. Well, now, just a moment. I want to object—

Mr. EGGERS. Let Mr. Clardy finish his question.

Mr. HARRY YOCKEY. Yes.

By Mr. CLARDY:

Q. And the manner in which you will handle the freight at the dock of the railroad company, under the description which you have just given me?

Mr. HARRY YOCKEY. Now, just a moment—on the ground that we are now getting into matters here that are not involved in the proceeding. What difference does it make how some other motor carrier may operate? If these people are operating in a certain way, as far as some physical operation is concerned, such as backing up a truck, or something of that sort, why, those things are apparent.

Mr. EGGERS. The objection will be overruled.

By Mr. CLARDY:

Q. Answer the question, please.

257 A. Repeat it.

Mr. CLARDY. Read it.

(Question read.)

A. No, sir.

By Mr. CLARDY:

Q. Witness, do you not find it necessary to service your trucks just as any other motor carrier must do?

Mr. HARRY YOCKEY. Now, if the Board please, again I want to object. Why must we have this continuous reference to other carriers? That is not involved here. Let him ask the witness what we do. I think it is very unfair to go into a matter of that sort here. We do not know what other carriers may or may not



do. Let counsel ask the witness what we do. That is competent, and we have no objection to that.

Mr. ANDERSON. If the Board please, Mr. Yockey has insisted to you that this is different, that it is a different kind of operation.

Mr. HARRY YOCKEY. It is not a question of what the other carriers do. It is a question of what The Willett Company does, which is serving The Pennsylvania Railroad.

Mr. ANDERSON. Exactly, and you claim that it is different, and we have a right to show that it is not different; and we have already shown it, and will continue to show it time and time again.

Mr. CLARDY. Now, may I have an answer to my question, please.

258 Mr. HARRY YOCKEY. Just a moment, please. I have no objection to the question, if counsel will leave out the comparative end of it. We have nothing to hide about this service, but when you get into that part of it, you get into an ambiguous situation, where you are comparing it to some other service.

Mr. EGGERS. Overruled—

Mr. HARRY YOCKEY. And I am going to object to it on that ground.

Mr. EGGERS. The objection is overruled, and the witness may answer the question to the best of his ability.

Mr. HARRY YOCKEY. If he knows.

Mr. EGGERS. If he knows.

Mr. HARRY YOCKEY. All right.

Mr. EGGERS. If he can make the comparison.

By Mr. CLARDY:

Q. Can you answer my question, Witness?

A. State it again.

Mr. CLARDY. Read it, please.

(Question read.)

A. We service our equipment; yes.

By Mr. CLARDY:

Q. Surely. And you maintain the terminals and the employees necessary for that purpose, do you not?

A. We do not maintain any terminals; no, sir. We have several garages.

Q. You do?

A. Yes.

259 Q. Will you have some garages on these lines that are proposed?

A. We have one at the present time, and we will probably retain it, but we will not have any more.

Q. Where will that be located?

A. Grand Rapids.

Q. Well, now, Witness, that brings me to my question of the kind of service that you are rendering at Grand Rapids at the present time. You are picking up and delivering freight there, are you not?

A. Yes.

Q. And you are proposing, if this authority is granted, to continue to do that, are you not?

A. Yes.

Q. So that if a shipper should have a full truckload of freight, although a less than carload shipment, to offer you at Grand Rapids, to move to some point on these proposed routes in Indiana, short of Fort Wayne, you propose, as you testified a moment ago, to pick that shipment up on your pickup truck; is that correct?

Mr. HARRY YOCKEY. Well, now, just a moment. I want to object again, if the Board please. Counsel is getting into the question again of what the railroad will do, and this witness is not a railroad witness.

Mr. CLARDY. I am not asking the witness anything about the railroad, or what the railroad will or will not do. I am asking him what The Willett Company will do.

Mr. HARRY YOCKEY. And they cannot do anything unless the railroad turns it over to them. Mr. Christie is in a better position to explain the differentiation in the service, as to what they will do. This man's company will take what they turn over to it.

Mr. EGGERS. Will you let me hear that last question again, please, Mr. Reporter.

(Question read.)

Mr. HARRY YOCKEY. I object to the question, if your Honors please, on the further ground that the question presupposes that the shipment is going to be offered direct to The Willett Company, and that is not the case, in any instance. Counsel is just assuming something that the evidence is clear as a bell on.

The WITNESS. I thought he was saying that the railroad had it and offered it to us.

Mr. HARRY YOCKEY. No, he was asking you something else.

Mr. CLARDY. It is offered to them sometime, somehow, because, of course, carriers do not transport freight that is not offered to them.

Mr. EGGERS. Objection sustained.

Mr. CLARDY. What is that?

Mr. EGGERS. Sustained. The objection to the question is sustained.

Mr. CLARDY. Will you read my question again, please,  
261 Mr. Reporter and I will see if I can reframe it. Will you  
also read the objection, because I still do not know what the  
objection was, other than that counsel just did not like my  
question.

(The record was read.)

Mr. EGGERS. Now, just a moment, gentlemen. Let the record  
show, Mr. Reporter, that the Joint Board has reconsidered its  
ruling, just made, and upon reconsideration, the objection is  
overruled.

Mr. HARRY YOCKEY. Now, may I—

Mr. EGGERS. Just a moment.

Mr. CLARDY. Thank you.

Mr. EGGERS. Let the record show, Mr. Reporter, that after con-  
sidering the question further, and the various points that have  
been presented in the argument, the ruling is reversed, and the  
objection now is overruled.

Mr. HARRY YOCKEY. All right.

Mr. CLARDY. I thought perhaps our argument might have made  
it appear as though it were a different question.

By Mr. CLARDY:

Q. Now, will you answer my question, Witness?

A. We do not hold ourselves out to the shipping public to pick  
up freight or deliver it.

Mr. CLARDY. Well, now—

Mr. EGGERS. That is not an answer to the question.

Mr. HARRY YOCKEY. Yes, it is, your Honor.

262 Mr. EGGERS. No, that does not answer the question. That  
question can be answered by yes or no. Let me say to you  
now, Mr. Witness, that when a question is asked of you that is  
susceptible of a direct answer, answer it that way; and if you can-  
not answer it, just say so, but do not try to evade the question.  
Do not beat around the bush. I am going to say for the record,  
now, that we are tired of that, and we are absolutely through with  
it, as far as this Board is concerned. If you cannot answer the  
question, say so. There is nothing reprehensible about a witness  
saying that he cannot answer a question. But to come here and  
take the witness stand, and waste our time, and the time of every-  
body else, by trying to evade simple questions, when you know  
very clearly what the questioner has in mind, is not going to be  
tolerated any longer.

Mr. HARRY YOCKEY. Now, if the Board and the Examiner please,  
may I say this for the record: Counsel is asking the witness if they  
would do a certain thing—referring to The Willett Company.

Mr. CLARDY. That is right.

Mr. HARRY YOCKEY. And the evidence here is that The Willett Company does not do that.

Mr. CLARDY. Oh, my!

Mr. EGGERS. All right. Just a moment, now. Let us hear the question again.

Mr. HARRY YOCKEY. Yes.

263 Mr. EGGERS. And if the witness cannot answer it, let him say so.

Mr. HARRY YOCKEY. I think the record will show, your Honor, that the witness has not been quibbling, or trying to evade any question.

Mr. EGGERS. Well, the record will have to speak for itself as to that. Read the question.

(Question read.)

By Mr. CLARDY:

Q. Answer the question.

The WITNESS. I don't know just exactly where we stand here, now. It is all right for me to answer?

Exam. HARRISON. Yes.

Mr. EGGERS. Yes, go ahead and answer the question.

A. We would pick it up on the pick-up truck, yes, sir, and deliver it to the freight house.

By Mr. CLARDY:

Q. Well, now, would that be the invariable custom, regardless of the fact that it was a full truckload?

A. (No answer.)

Q. In other words, so that you will understand my question, Witness, in every instance where there is a full truckload to be picked up at the dock of the shipper, do we correctly understand from your testimony that under no circumstances would the shipment be sent immediately on its way to destination, but instead, would be brought to the dock or terminal of the railroad, 264 and there unloaded, and then reloaded onto another truck?

A. Yes.

Q. Is that a correct statement of the way in which it would be handled?

A. Yes.

Q. Without any exceptions?

A. Yes, sir.

Q. And regardless of the fact that the scheduled time of the departure out of Grand Rapids might be such that the shipment would have to be held over until the next day, even though it was a full truckload?

A. Yes, sir.

Q. In other words, even though it was a full truckload shipment, it nevertheless would be handled in that fashion?

A. Yes, sir.

Q. In all cases?

A. Right.

Q. Then, it would not be true that the handling of this freight in truck service by the trucking company, would always result in a saving of time, would it?

A. I don't know.

Q. Did you have anything to do with preparing applicant's exhibit No. 4 here?

A. (No answer.)

Q. The schedule of operations

265 A. Four?

Q. Yes.

A. Yes, sir. I collaborated with Mr. Christie on it.

Q. You did what?

A. I collaborated, I say, with Mr. Christie, on it.

Q. Mr. Christie told you what he wanted, did he?

A. Yes.

Q. And you agreed?

A. Yes.

Q. That is right, is it?

A. Yes, sir.

Q. Well, then, do I correctly understand from the way in which you have set this up, based on your knowledge of the exhibit, that you intend to make a separate truck operation from Fort Wayne, Indiana, to Kalamazoo, Michigan, separate and distinct I mean from the other physical operations set out on applicant's exhibit No. 4?

A. No, sir.

Q. That is not correct?

A. No.

Q. All right. Now, going to the first entry on applicant's exhibit No. 4, that entry proposes that the truck shall leave Fort Wayne at 9 a. m., and get to Kalamazoo at 4 p. m.; and as part of that same bracket, you propose an operation out of Kalamazoo at 11 a. m., arriving at Fort Wayne at 4 p. m.

266 A. Yes.

Q. Now, my question is this: is that physical operation between those two points to be treated as a separate unit in the operations that you are requesting authority to conduct?

A. It is the schedule that we propose to put into effect between Fort Wayne and Kalamazoo.

Mr. CLARDY. Well, now, Witness, you have apparently missed the point of my question.



Mr. EGGERS. That does not answer the question.

Mr. HARRY YOCKEY. Separate from what?

By Mr. CLARDY:

Q. Let me ask you this question: is it proposed that this truck that operates from Fort Wayne to Kalamazoo, will go beyond Kalamazoo, up to Grand Rapids or any other point, or will it turn around and go back to Fort Wayne at Kalamazoo?

A. It is proposed at this time that the truck will leave Fort Wayne, and go to Kalamazoo, and lay over there, and come back the next day.

Q. In other words, then, there will be no through truck operation of any kind from Fort Wayne, for example, to Grand Rapids, will there?

A. No.

Q. Nor to any other points on this route at least, except to Kalamazoo?

A. That is correct.

Q. That is right, is it?

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A. Yes, sir.

Q. All right. Then, in every instance where a shipment of freight might be tendered to you at some point north of Fort Wayne, in Indiana, or in case it was Michigan, where it would be brought to the line through some interline arrangement with some other carrier—I say, in every instance where a piece of freight originates at any of these points, if it is destined to a point north of Grand Rapids and south of Cadillac, it will be necessary to transfer that shipment from one truck to another at Grand Rapids, will it not?

A. Well, that is purely an operating problem from the railroad's standpoint.

Q. How is that?

A. I say, that is purely an operating problem, from the railroad's standpoint.

Q. All right, but if you get the freight you will handle it that way, will you not?

A. We will take freight from The Pennsylvania freight house, as they give it to us, to go over this route.

Q. Well, in actual operation—and we will come back to it again—if a piece of freight is offered to you from Kendallville, Indiana, or some other point north of Fort Wayne, Indiana, destined to a point north of Grand Rapids, and south of Cadillac,

Michigan, that freight will be handled by one truck to Kalamazoo, and transferred there, will it, or will it move on up to Grand Rapids, or just how will it be handled?

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A. That is a railroad proposition. We would haul that freight to the terminal at Kalamazoo, and then if the railroad company decided to move it by truck, or by rail—well, that would be its job.

Q. Do you know how that is going to be done?

A. No, sir; I don't know how it will be done.

Q. Well, then, if I should attempt to have you tell me how you are going to move a piece of freight out to one of the little towns that are intermediate between Muskegon and Grand Rapids, Michigan—and I am speaking now of some freight that might be offered to you at some point north of Fort Wayne and south of Kalamazoo—you would not be able to tell me how you are going to handle it, would you?

A. No, I would not.

Q. Well, Witness, did you not ever have any discussion with the railroad, or representatives of the railroad, about what you were going to do in this operation?

A. Yes.

Q. Are you not interested in knowing how much business is going to be given you between certain points?

A. Yes.

Q. And how you are going to handle it?

A. Yes, sir.

Q. Well, how did it happen, then, that you did not find  
269 out about how you are going to handle business to the various points on the route?

A. In this schedule that we prepared here, applicant's exhibit No. 4, we set up these various routes for truck schedules, over which we would operate trucks. The arriving time and the departure time is shown. Now, the freight that would move on the particular schedule, so far as we are concerned, would not have any relation to what freight might move on another schedule, adjacent to it. If the authority contained in our certificate, the authority that we might secure, covered an operation involving a progressive movement of freight from one schedule to another, and the railroad so elected to do that, or wanted it done, then it would be done; but so far as freight is concerned that would originate on schedule No. 1, say, as an example, between Fort Wayne and Kalamazoo, to be ultimately delivered by truck progressively to the Mackinaw-City-Petoskey schedule—points on that schedule—I cannot tell you about that. As I said before, that would be a railroad problem, as to how they would want to handle that.

Mr. CLARDY. Mr. Reporter, will you read that last answer, please.

(Answer read.)

By Mr. CLARDY:

Q. Do I understand your answer to be, Witness, that you do not care—

Mr. HARRY YOCKEY. Well, now—

270

By Mr. CLARDY:

Q. Or that it is purely a matter for the railroad?

A. Yes, sir.

Q. Is that the substance of what you are saying?

A. Yes, sir.

Mr. BARKELL. Let me interrupt to ask a question right here, please, Mr. Clardy.

Mr. CLARDY. Yes.

By Mr. BARKELL:

Q. Mr. McArdle, did you or anybody else connected with The Willett Company make any survey to see whether or not this would be a paying proposition, as far as The Willett Company is concerned?

A. We know that it would be a paying proposition.

Mr. EGGERS. That is not an answer to the question.

By Mr. BARKELL:

Q. Did you make any survey to find out?

A. (No answer.)

Q. Or, I will ask you, how do you know?

A. Well, our arrangement with the railroad is such that it will be a paying proposition.

By Mr. CLARDY:

Q. Do you mean by that, Witness, that the railroad representatives told you something, and you accepted it without question?

A. We have arrangements in effect—

Q. Now, that is a simple question, that can be answered by yes or no. Answer the question.

271 Mr. EGGERS. Answer the question.

A. Repeat it.

Mr. CLARDY. Read it, please.

(Question read.)

A. No.

By Mr. CLARDY:

Q. Now, coming back again to applicant's exhibit No. 4, Witness, if we may.

A. Yes.

Q. I note that the operation from Fort Wayne to Kalamazoo is scheduled to arrive in Kalamazoo at 4 p. m., and the next entry, showing the movement north from Kalamazoo to Grand

Rapids, has its scheduled departure time at exactly 4 p. m. Do you notice that?

A. Pardon me. I don't just get that.

Q. All right. Let us start all over again. Do you have applicant's exhibit No. 4 before you there?

A. Yes.

Q. Will you look at the first line, please.

A. Oh, yes.

Q. Showing arrival in Kalamazoo at 4 p. m.

A. Yes.

Q. And then the truck leaves Kalamazoo, going to Grand Rapids at 4 p. m.

A. Yes, sir.

Q. Do you see that?

272 A. Yes.

Q. Is it proposed that there will be any freight brought in on that truck that leaves Fort Wayne in the morning, and gets into Kalamazoo at 4 p. m., that will be transferred to the schedule leaving Kalamazoo at 4 o'clock for Grand Rapids?

A. (No answer.)

Q. Is it contemplated that any of that freight will be transferred to the schedule leaving Kalamazoo for Grand Rapids at 4 o'clock?

A. That is a railroad problem also.

Q. Well, Witness, do you not have even a slight interest in this application?

A. Certainly.

Q. Well, is that not something for you to think about, as to whether you are going to have any freight on that run that leaves Kalamazoo for Grand Rapids?

A. Not necessarily; no, sir.

Q. You do not care?

A. No.

Q. Well, then, let me put it another way: you could not possibly transfer any freight from the truck that gets into Kalamazoo from Fort Wayne, to the truck that leaves Kalamazoo for Grand Rapids, at exactly the same hour, could you?

A. No.

Q. You could not possibly transfer freight in nothing  
- 273 flat, and get out of there, could you?

A. That is right.

Q. So that, then, as a matter of fact, any freight that is picked up, according to your schedule here, north of Fort Wayne, in Indiana, to use an illustration, scheduled for Grand Rapids, that is picked up on your truck this morning, we will say, if you have

the authority, would get into Kalamazoo at 4 p. m. this afternoon, if you made the schedule, and then could not possibly leave Kalamazoo until the next afternoon when the truck leaves at 4 o'clock, could it?

A. That is correct.

Q. Is there any saving in time there, that you know of?

A. None.

Q. You would not think, if you were a customer, or a shipper, that that was speedy, fast, expedited, efficient service, would you?

A. I would say, not.

Q. How?

A. No.

Q. No. Now, Witness, have you looked at this schedule here very carefully, to see how disjointed it is at other places? For example, suppose you were a shipper or receiver of freight away up in the northern end of the state of Michigan?

Mr. HARRY YOCKEY. Well, now, just a moment. I want to object, if the Joint Board please, to the use of the word "dis-  
274 jointed" in that question. The mere fact that Mr. Clardy may be disjointed, does not make the schedule disjointed; and just because these particular routes do not happen to hit just exactly at a given time, does not indicate that all of these movements are going by truck. And furthermore, Mr. Christie has testified, in the illustration that he gave this morning, that some of the shipments would go to Fort Wayne by rail.

Mr. CLARDY. Well, no; not if your witnesses are to be believed.

Mr. HARRY YOCKEY. They are to be believed.

Mr. EGGERS. Well, now, just a moment, gentlemen. Is there an objection pending?

Mr. HARRY YOCKEY. Yes.

Mr. EGGERS. Read the question, please.

Mr. BARKELL. I do not believe Mr. Clardy finished his question.

(Question read.)

Mr. HARRY YOCKEY. Right on that particular situation, your Honor, Mr. Christie testified, in the illustration that he gave, that shipments would be carried into Kalamazoo by truck, and would go by rail from there to Fort Wayne.

Mr. CLARDY. To Fort Wayne?

Mr. HARRY YOCKEY. Or rather, I mean to say Grand Rapids.

Mr. CLARDY. Not if I heard him right.

Mr. HARRY YOCKEY. Well, you did not hear him right, then.

275 Mr. EGGERS. Well, now, just a moment, gentlemen. I really do not remember what that testimony was. Read the question to me again will you please, Mr. Reporter.

(Question again read.)



Mr. EGGERS. Are you objecting to the entire question, Mr. Yockey, or just to the use of the word "disjointed"?

Mr. HARRY YOCKEY. I am objecting to that part, your Honor, where he characterizes the schedule as being disjointed.

Mr. CLARDY. Oh, your Honor, there is no opprobrium intended in that. I am merely pointing out—or trying to ask the witness if he has noticed that they are not so hitched together as to make possible an expedited, convenient and efficient service.

Mr. EGGERS. Well, then, are you willing to amend your question to read that way?

Mr. CLARDY. Surely.

Mr. EGGERS. All right.

Mr. CLARDY. I shall be glad to.

Mr. EGGERS. Then the objection will be overruled.

By Mr. CLARDY:

Q. Now, Witness, you understand what we are trying to get at, do you not?

A. Let me hear it again.

Mr. EGGERS. Read it.

Mr. CLARDY. To save time, I will reframe it.

Mr. EGGERS. All right.

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By Mr. CLARDY:

Q. Witness, have you looked closely enough at applicant's exhibit No. 4 here, to discover that a shipper or receiver of freight located up in the upper end of our state—

Mr. EGGERS. By that do you mean Michigan?

Mr. CLARDY. Yes; Michigan.

Mr. EGGERS. All right.

By Mr. CLARDY:

Q. If he were depending upon this truck service to get him a shipment in, or a shipment out, would, because of the disjointed nature of the schedules here, find it almost impossible to get any speedy or efficient service—

Mr. HARRY YOCKEY. Well, now—

Mr. CLARDY. Let me finish.

Mr. EGGERS. Go ahead.

By Mr. CLARDY:

Q. And by "disjointed" I mean that the schedules are not co-ordinated so as to make it possible to transfer from one vehicle to another.

Mr. EGGERS. Are you objecting, Mr. Yockey?

Mr. HARRY YOCKEY. Not with that qualification; no.

A. (No answer.)

Mr. CLARDY. I am just trying to ascertain, Mr. Chairman, if this witness knows anything about the kind of service that he is really proposing; and if he does not, he can say right off that he does not know.

Mr. HARRY YOCKEY. This witness, your Honor, is testifying that they will take the freight that is offered to them by the 277 railroad company. In some instances it moves part of the way by rail, and part of the way by truck, and that will depend upon how the railroad desires to handle the particular freight. Mr. Christie is the man who can testify exactly with respect to the freight that they want to turn over to the truck line, to handle, and the part that they do not; and he will be able to testify minutely as to those phases of what the railroad will do.

Mr. EGGERS. What do you say, Mr. Clardy?

Mr. CLARDY. May I point out the situation here, your Honor? I have been contending all along that the railroad is the applicant, and I think that the statement of my brother, without knowing it to be so, has indicated that that is the case. Now, I thought I was addressing my questions to the right fellow, this officer of the applicant here, but maybe I am wrong.

Mr. HARRY YOCKEY. I think you are.

Mr. EGGERS. With respect to the pending question, I think that question can be answered, and the objection, if there was one, is overruled.

Mr. CLARDY. Thank you.

Mr. EGGERS. The witness may answer the question.

Mr. CLARDY. The Board has ruled that you may answer, Witness.

Mr. EGGERS. Pardon me just a moment further, Mr. 278 Clardy. I think there is something in what Mr. Yockey has said. No doubt a good many of these same questions will be asked of Mr. Christie. He probably would know more about the operating schedules.

Mr. HARRY YOCKEY. Yes.

Mr. EGGERS. What do you say to that, Mr. Clardy?

Mr. CLARDY. Why, I will concede that, your Honor. Probably the railroad does know a little more about them.

Mr. EGGERS. Well, now, let us see. May we hear the question again, please, Mr. Reporter.

(Question again read.)

Mr. HARRY YOCKEY. Of course, your Honor, there is the objection that that is not a question, but a speech.

Mr. BARKELL. Oh, let him answer the question.

Mr. EGGERS. Yes.

Mr. BARKELL. Before we have to have it read over again. That question has been read twice, now, and possibly three times, and it takes a lot of time.

Mr. HARRY YOCKEY. We have had some of these questions read back here three or four times, because counsel does not give the witness a chance to answer, and see whether he can answer the question or not. We get into a discussion then between counsel, and the question has to be read all over again.

Mr. EGGERS. Answer the question.

A. Taking the first part of that question as I understand 279 it, with respect to shipments into or out of a point in northern Michigan—I don't know where that would go into, or where that would come out of. If Mr. Clardy is referring to the schedule between Mackinaw City and Petoskey, and Petoskey and Cadillac, that is one thing. I would like to have him be specific.

Mr. CLARDY. All right, Witness. I will be very happy indeed to endeavor to cooperate with you.

By Mr. CLARDY:

Q. Let us look at this map here now, so that there will not be any confusion—applicant's exhibit No. 2.

A. All right.

Q. And let us pick out a point—well, let us pick out the town of Petoskey. You are going to serve that point, are you not?

A. Yes, sir.

Q. All right. Now, if a shipment is going to move out of Petoskey, Michigan, and is going to move south, have you given any consideration to what kind of connection it is possible to make if that shipment is going anywhere on the lines of The Pennsylvania Railroad?

A. Where would it be going from Petoskey?

Q. Well, let us take it down into Indiana somewhere.

A. All right. Well, it will leave Petoskey at 10 o'clock in the morning, and arrive at Cadillac at three o'clock in the afternoon, according to this schedule.

280 Q. All right. Now, let us just take a look at that. In which line of the exhibit do you find that?

A. The fourth from the bottom.

Q. All right. You are counting the double schedules as a line apiece, are you?

A. The fourth individual line.

Q. That is in the fourth individual line.

A. Yes.

Q. All right. Now, the shipment would leave Petoskey at 10 a. m.

A. Yes.

Q. And it would get into Cadillac at 3 p. m.

A. Yes, sir.

Q. All right. Then what happens to it?

A. Well, it would be up to the railroad, then, as to just what they wanted to do with it.

Q. Well, is it going to move out of there by truck, or not?

A. I would not know that.

Q. Do you mean to say, Witness, that you do not have the slightest idea as to what is going to happen to that shipment?

A. No.

Q. Then the fact that there may be a truck scheduled out of Cadillac at 4 o'clock p. m.—no, just a moment. That is incorrect. Let me get that again. We have gotten it into Cadillac, now, and we are trying to get it out of Cadillac.

281 Mr. MOBERLY. The third group.

Mr. CLARDY. Yes.

By Mr. CLARDY:

Q. The fact that there may be a schedule out of Cadillac at 1:30 p. m., getting into Grand Rapids at 7 p. m.—that is right, is it not?

A. Yes.

Q. Would not suggest to you that in all probability the shipment out of Petosky would have to lie over until the next day before it is going to get truck service?

A. (No answer.)

Q. You had not noticed that, had you?

A. Yes, I noticed that.

Q. Do you have the slightest idea that the business is going to be transferred to the rail at Cadillac?

A. Again, that is a question for the railroad, and I do not run the railroad.

Mr. HARRY YOCKEY. That is the answer, your Honor.

Mr. CLARDY. Yes; unsatisfactory as it may be, that seems to be the situation.

Mr. HARRY YOCKEY. If you will ask Mr. Christie, he will tell you how it will move.

Mr. CLARDY. I will save my fire for him, then, until he gets back here.

Mr. HARRY YOCKEY. All right.

By Mr. CLARDY:

282 Q. Well, now, Witness, what I have just asked you is typical of the whole exhibit No. 4, is it not?

A. (No answer.)

Q. In other words, that there is a mismatching all the way through, so that you could not possibly render continuous truck

service because of the fact that the shipment will go to a point where it must be transferred to another truck and have to wait over until the next day?

Mr. HARRY YOCKEY. Well, now, just a moment. I am going to object to that question.

By Mr. CLARDY:

Q. Is that not true?

Mr. HARRY YOCKEY. Just a moment. As far as any mismatching of service is concerned, there is nothing of the kind in this case. There is no testimony in the record, there is no statement, or anything else, that they could not be matched at all. It is the purpose to operate the short-hauls by truck, and the long hauls by rail.

Mr. EGGERS. Sustained.

Mr. HARRY YOCKEY. There is not any such purpose or intention in this case.

Mr. CLARDY. How is that, your Honor?

Mr. EGGERS. The objection is sustained.

Mr. CLARDY. Well—

Mr. EGGERS. I think you are assuming a little too much there, Mr. Clardy.

Mr. CLARDY. I was not assuming anything, your Honor.  
283 I was referring to applicant's exhibit 4 here, and asking him about that. I was not asking him on the basis of any assumption.

Mr. HARRY YOCKEY. I think you did.

Mr. CLARDY. You could not have understood my question, your Honor. However, to save time, I will ask it another way.

Mr. EGGERS. All right.

By Mr. CLARDY:

Q. Witness, is there any point north of Grand Rapids from which it would be possible for a shipper to offer freight either to the railroad or to you—that is, The Willett Company of Indiana—or to either of you in combination, that you care to mention, or that you are able to mention, and have that freight handled by your line in continuous journey—that is, from any of these points on that part of the application that I have mentioned, to any point in Indiana on the route north of Fort Wayne?

Mr. HARRY YOCKEY. Just a moment, now. Do you mean by truck, Mr. Clardy?

Mr. CLARDY. By truck.

Mr. HARRY YOCKEY. Well, now, if the Board please, I want to object to that question. The testimony is very clear in this case, that we are not seeking that authority.



Mr. CLARDY. Well, now—

Mr. EGGERS. Read the question.

Mr. CLARDY. It is not clear at all.

Mr. HARRY YOCKEY. I say it is clear.

284 Mr. EGGERS. Just a moment, gentlemen. Read the question, please, Mr. Reporter.

(Question read.)

Mr. CLARDY. Now, before you answer—

Mr. HARRY YOCKEY. Before they rule, you mean.

Mr. CLARDY. I want to point this out, that they have named two key points here, Fort Wayne and Grand Rapids, and I have deliberately picked a shipment north of Grand Rapids, that does not go to any other key point.

Mr. EGGERS. I think the question is proper.

Mr. CLARDY. Sure.

Mr. EGGERS. The objection is overruled, and the witness may answer the question.

The WITNESS. The answer is "no."

By Mr. CLARDY:

Q. No—what?

A. Sir?

Q. Do you mean by that answer, that you could not give continuous, efficient, service? Is that what you mean?

A. We could give a speedy and efficient service, but not a continuous service; no, sir.

Q. Well, would you regard service that requires at least one or two lay-overs of 24 hours as being a speedy and efficient service?

A. In some cases, yes.

Q. That is, if the railroad was performing the service  
285 it would be, would it?

Mr. HARRY YOCKEY. Well, now, I want to object to the comparative proposition, bringing in the railroad.

Mr. CLARDY. He said, in some cases he would, and I just want to develop what cases he has in mind.

Mr. HARRY YOCKEY. Objection.

Mr. EGGERS. Overruled.

By Mr. CLARDY:

Q. Can you answer my question?

A. State it again.

Mr. CLARDY. Read it please.

(Question read.)

A. I am not employed by the railroad.

By Mr. CLARDY:

Q. Well, if you were performing the service, you would consider that as efficient service, would you?

A. Yes.

Q. Now, you said something a moment ago to the effect that tonnage did not enter into the picture at all, so far as you were concerned.

A. Yes.

Q. Would you tell me what you mean by that?

A. Well, as I stated before, our arrangements with the railroad have nothing to do with tonnage.

Q. You mean, then, do you, Witness, that regardless of whether there is no freight at all, or 100 pounds of freight, or truckloads of freight, it is all the same to you?

286 A. Yes.

Q. So that if this operation should be carried on, and despite the optimistic predictions of the railroad, the tonnage should be only a fraction of a truckload on each movement, you would still desire the authority, would you?

A. Yes.

Q. Would you, out of your experience as a truck operator of many years standing, consider that an efficient way to operate—basing your answer, now, on the fact that you would only have a fraction of a load each time?

A. If that is the set-up for the service, as far as I am concerned, it is efficient.

Q. That is your idea?

A. Yes.

Q. All right. Now, you said, sir—it was either you, or one of the other witnesses, but I think it was you—that you would not accept this famous restriction about a prior and subsequent rail movement. Just what did you testify with respect to that?

Mr. HARRY YOCKEY. Just a moment. This witness has not testified regarding that. That was Mr. Christie.

Mr. CLARDY. Well, we have had so many statements about it, that I thought he was the one. However, I might ask him a question about it.

By Mr. CLARDY:

Q. Witness, do you have in mind some particular reason why you, as the applicant, would not desire to accept that  
287 restriction?

A. From our present experience, which is all that we have to talk from, or discuss, there are cases where this restriction does work a hardship in that it requires us to backhaul freight, and haul it a lot greater distance.

Q. The tonnage does not make any difference to you?

A. No.

Q. You said that.

A. Yes.

Q. Does not that backhaul make you more money?

A. No.

Q. It does not?

A. No, sir; because we operate over the route in both directions, anyway.

Q. Well, then, if you operate over the route in both directions anyway, how does it inconvenience you?

A. Because it require extra trips, and sometimes it is difficult to get extra equipment to make extra trips.

Q. As a practical matter, now, Witness, in this operation, is not tonnage, after all, of some importance to you?

A. It is not a factor as far as we are concerned, no, sir, because of the fact that the schedule we have in effect, and the present operation, requires us to make an extra movement.

Q. Well, now, I do not understand what you mean by that. Will you explain?

288 A. All of our trucks at the present time are operating on fixed schedules, and we have definite assignments of personnel to those schedules, and we have a very limited backlog of extra personnel to take up any slack that might occur from sickness, accident, or what not. So that when a situation of this kind exists, and we are requested to make an additional trip, due to this "prior or subsequent movement" proposition, which we have in several instances, it requires us to get extra men out to do the work.

Q. Well, now—

A. And that is not in our set-up.

Q. I am still unable, Witness, to see how the "prior or subsequent" proposition makes you employ—or causes you to make the extra trip. Can you explain that to me?

A. Well, we will assume that a truck operates from point A to point B, and that point A and point B are interstate points.

Q. Well, now, let us stick to this Kalamazoo-to-Fort Wayne proposition.

A. All right.

Q. Just to be concrete.

A. All right.

Q. Go ahead.

A. Or suppose we say, a point intermediate to Kalamazoo.

Q. All right. You pick your point.

A. Just a moment.

289 Q. Three Rivers?

A. Sturgis.

Q. Sturgis.

A. Yes.

Q. Very well. That is a good town.

By Mr. EGGERS:

Q. You are talking about Sturgis and Fort Wayne, now, are you?

A. Yes, sir.

Mr. EGGERS. All right.

By Mr. CLARDY:

Q. Go ahead.

A. If we had one truck operating there, operating out of Fort Wayne to Sturgis, and back—do you see?

Q. Yes.

A. And the traffic out of Sturgis, if it was moving in interstate commerce, would have to have a prior or subsequent movement by rail, it would have to be hauled by rail to another freight station, and we would have to go and get it, so that there would be additional traffic over and above the normal traffic that would move out of that station.

Q. Do you mean by that, that it would have to be picked up by rail at Sturgis, and move some few miles to another station?

A. Well, I would not say a few miles. I would say, move to another railroad station or transfer point.

Q. Well, now, let me see if I understand you correctly, Witness.

290 At the present time are you actually picking up freight at some point, we will say, at point A, to use a favorite illustration—

A. Yes.

Q. Just a moment—that originated really at point B, located, we will say, down the railroad line 10 or 15 miles, and that has been moved from point B to point A by rail, in order to get it onto the truck.

A. Well, it is not quite 10 or 15 miles. We have a condition right here in Indiana where we take freight from Brazil, Indiana, for instance, to Martinsville, Illinois, which is just relatively a short distance, just across the Illinois-Indiana state line.

Q. Yes.

A. We have hauled it from Brazil, Indiana, into Indianapolis, and then it is hauled by rail back to Effingham, Illinois, and the truck picks it up at Effingham, and brings it to Martinsville.

Q. And that results in a great delay, does it?

A. Well, that is something else again.

Q. All right. Now, let us be concrete. Where, on this line, as proposed, would any such situation arise?

A. Well, take the situation between Fort Wayne and the Indiana-Michigan state line, where traffic, interstate traffic, is destined, say, to the state of Michigan. It would have to be back-hauled into Fort Wayne, probably, and move by rail into the state of Michigan, and then moved by truck to its destination.

291 Q. I see. But if the freight, however, were destined to Grand Rapids, Michigan, it would be picked up, would it not, at whatever the Indiana point is, and taken directly to Grand Rapids by your truck?

A. Probably not; no.

Q. I mean, the way you propose to operate.

A. No, sir. We propose to operate from Fort Wayne to Kalamazoo.

Q. Well, then, you have got another key point in there that you have not mentioned before. I thought only Fort Wayne and Grand Rapids were the key points.

A. (No answer.)

Q. Well, at any rate, then, to shorten it, Witness, that is the only explanation that you have to give, is it?

A. Yes.

Q. And that is the only reason that the applicant has in mind, as to why it does not want that restriction; is that correct?

A. Yes.

Q. There is nothing else that enters into it?

A. No.

Q. It is wholly a question of the rail having to move it, in order to get around the restriction.

A. And serving our customers better.

Q. Do you have any idea as to whether the customers could get better service if they used some independent truck line?

Mr. HARRY YOCKEY. Just a moment.

292 A. I don't know.

Mr. HARRY YOCKEY. Just a moment, please. I want to object to that, if the Board please. That is not involved in this case. This is Pennsylvania Railroad freight that he is testifying about, and as to what freight might move on some other independent line, does not have anything to do with this case, as far as any prior and subsequent movement by rail is concerned, as far as that clause is concerned. This is railroad freight, and it is moving by rail. Counsel is getting into something now that is beyond the issue here.

Mr. CLARDY. Well, if public convenience and necessity is not involved here, possibly we are.



Mr. EGGERS. Just a moment, gentlemen. Let me hear the question again, please, Mr. Reporter.

(Question read.)

Mr. CLARDY. He answered the question.

Mr. HARRY YOCKEY. No.; he did not.

Mr. EGGERS. Did he answer it, Mr. Reporter?

(Answer read.)

Mr. EGGERS. I did not know that he had.

By Mr. CLARDY:

Q. Do you also have any present knowledge as to what points on the proposed routes as set forth in applicant's exhibit No. 2, are presently receiving pick-up and delivery service by some other carrier?

Mr. HARRY YOCKEY. Do you mean beside the Pennsylvania Railroad?

Mr. CLARDY. Yes.

A. I do not know what points are getting pick-up and delivery service.

By Mr. CLARDY:

Q. You do not have any idea?

A. No.

Q. You would not know, then, whether or not you are going to be substituted for another carrier along that route, would you?

A. No.

Q. Particularly, now, directing your attention to the route between Muskegon and Grand Rapids, Michigan, do you have any present knowledge of the number of common carriers that are operating between those two points?

A. No.

Q. You do not?

A. No, sir.

Q. And is your knowledge equally deficient with respect to the service which is presently available by such carriers, between all of the other points set forth in the application?

Mr. HARRY YOCKEY. Well, now, just a moment. I object to that if the Board please. This man is a representative of the trucking company, appearing for the trucking company here, that is seeking to get this authority, and what difference does it make as to what other companies may be doing, as far as this application is concerned?

Mr. CLARDY. Let me say—

Mr. HARRY YOCKEY. What difference does it make whether or not he has made an investigation of what other truck lines may or may not be doing, as far as this truck line itself is concerned? This is the only truck line that is involved here.

Mr. EGGERS. The objection is overruled. If the witness knows he may answer.

Br. Mr. CLARDY:

Q. If you cannot answer the question, Witness, you may say so.

A. I don't know how many there are.

Q. How is that?

A. I say, I don't know how many there are.

Q. And you would not know the number that are offering service between any points on any of this extension application, would you?

A. No.

Mr. CLARDY. That is all I have.

Mr. EGGERS. Is there any further cross-examination of Mr. McArdle?

Mr. KING. I have just two or three questions, if your Honor please.

Mr. EGGERS. Go ahead, Mr. King.

By Mr. KING:

295 Q. I believe you stated, Mr. McArdle, that you either prepared or directed the preparation of the application that is now on hearing here; is that correct?

A. Yes, sir.

Q. Will you turn, please, to exhibit C, in the application.

A. Exhibit C?

Q. Yes.

A. Yes, sir.

Q. Do you have that before you?

A. Yes.

Q. Refer to paragraph (b) of exhibit C.

A. What paragraph?

Q. Paragraph (b).

A. Yes.

Q. In that paragraph we find the following statement: "Applicant has no knowledge of any other motor carrier operating in the territory covered by this application, with whose operations the service herein proposed would be competitive."

Mr. HARRY YOCKEY. Well, now, just a moment. I object to that question. Mr. Clardy has already gone into that.

Mr. MOBERLY. There is no question as yet.

Mr. EGGERS. No.

Mr. KING. No; I merely asked him if he had made any investigation, and he said no.

Mr. EGGERS. They may ask him as to his application.

Mr. HARRY YOCKEY. All right.

By Mr. KING:

296 Q. The statement that I have just read appears in that paragraph of exhibit C; does it not?

A. Yes, sir.

Q. Assuming that the Norwalk Truck Line Company operates between Fort Wayne, Indiana, and Sturgis, Michigan; would you say that this service which you now propose would not be in any way with that service?

A. Yes, sir.

Q. Would the service of The Pennsylvania Railroad, through you, or that is, through The Willett Company of Indiana, be competitive with the service of the Norwalk Truck Line Company?

A. Not to my knowledge; no.

Q. That is your opinion, is it?

A. Yes.

Q. And that statement would be true also with respect to any other motor carrier operating over the routes proposed in this application, would it?

A. Yes.

Q. In your opinion—or rather, first, let me ask you, how long have you been in the motor-carrier business, Mr. McCordle—in the trucking business?

A. About 22 years.

Q. Will you state that in your opinion as a motor-carrier operator, the institution of the motor service such as is proposed here would not in any way be competitive with the service of other motor carriers over the same routes, and between the same  
297 points?

A. Yes.

Mr. KING. That is all.

By Mr. CLARDY:

Q. Witness, why do you say that?

A. Because I know of no carrier that is serving all of the points on each of these routes.

Q. Well, are there carriers that serve any of the points?

A. Probably.

Q. Well, then, you do know that there are some carriers operating there, do you not?

A. I don't know who they are. That is, I have seen their trucks, but I don't know who they are.

Q. Well, between Fort Wayne and Grand Rapids you know that there are carriers operating, do you not?

Mr. HARRY YOCKEY. I want to object, if the Board please, on the ground that the witness has already answered that question. Why should we waste any time having it asked over again?

Mr. CLARDY. No; not this question. The witness says now he knows that there are some motor carriers operating in there.

Mr. EGGERS. This question applies specifically between Fort Wayne and Grand Rapids, does it?

Mr. CLARDY. Yes.

Mr. EGGERS. If the witness knows, he may answer.

By Mr. CLARDY:

Q. Do you understand the question?

A. Say it again.

298 Mr. CLARDY. Read it, please.

(Question read.)

Mr. BARKELL. That is the question.

A. No.

By Mr. CLARDY:

Q. What points, then, did you have in mind, Witness, that you said you did know they were serving?

A. On my trips up into Michigan, I have seen their trucks. I don't know what points they were operating to or from; but I have seen their trucks, is all.

Q. Well, assuming that there are some motor carriers operating there, then my question is the same as I asked you a moment ago: why would not the service which you propose be in any sense competitive with the service of those carriers between those same identical points?

A. First of all, because I don't know of anybody who performs this same type of service that we perform; and secondly—

Q. What do you mean by that?

A. Sir?

Q. Just explain that answer, as you go along.

A. Well, we operate from station to station on the Pennsylvania Railroad.

Q. That is all you mean, by that, is it?

A. Yes, sir.

Q. All right. Now, what is the rest of it?

299 A. Secondly, I don't know of any other operator that serves all of the points on these routes.

Q. I only took two points. We will take any two given points, where we know that there is service, for the purpose of my illustration.

Mr. HARRY YOCKEY. You are asking this witness about something now that he does not know.

Mr. EGGERS. The question is a hypothetical question, Mr. Yockey.

Mr. HARRY YOCKEY. Yes.

Mr. MOBERLY. The question is as clear as a bell.

A. Well, I don't know.

By Mr. CLARDY:

Q. Do you know of any point on this entire route, Witness, that is not presently being served by motor carrier service?

A. No.

Q. How?

A. I wouldn't know.

Q. Then, I will ask you this question: Have you completed all of your answer with respect to why there would be no competition existing?

A. My original answer was completed, yes.

Q. It is all complete?

A. Yes.

Mr. CLARDY. Thank you.

Mr. EGGERS. Is there any further cross-examination of this witness? (No response.) Is there anything on redirect, Mr. Yockey?

Mr. MOBERLY. There may be some further cross-examination tomorrow, your Honor, relative to the financial statement, of which counsel for protestants have not as yet received copies.

Mr. CLARDY. Yes.

Mr. EGGERS. That is correct. Other than that, though, I take it, apparently there will be none. Is there any redirect examination, Mr. Yockey?

Mr. YOCKEY. I think not.

Mr. EGGERS. Very well, then. You are excused.

(Witness excused.)

Mr. EGGERS. At this time we will adjourn until tomorrow morning at 8:30.

(At 6:20 p. m., February 10, 1942, hearing adjourned until 8:30 a. m., February 11, 1942.)

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STATE HOUSE.

*Indianapolis, Indiana, February 11, 1942.*

Met, pursuant to adjournment at 8:30 o'clock a. m.

Before Joint Board No. 23, represented by Richard H. Barkell, Michigan; Oliver H. Eggers, Indiana.

Present: REECE HARRISON, Examiner.

Appearances: As heretofore noted.

#### PROCEEDINGS

Mr. BARKELL. Come to order, please, gentlemen. Now, Mr. Yockey, what procedure do you want to follow here this morning? Would you like to start putting on your shipper witnesses at this time?

Mr. HARRY YOCKEY. Yes.

Mr. BARKELL. In order to let them get away.



Mr. HARRY YOCKEY. Yes, sir. However——

Mr. BARKELL. Or just what procedure do you desire to follow?

Mr. HARRY YOCKEY. I think we would prefer to start, at least, with our shipper witnesses this morning, your Honor.

Mr. BARKELL. All right.

303 Mr. HARRY YOCKEY. If that is agreeable to the bench and the parties.

Mr. BARKELL. Is there any objection to following that procedure?

Mr. DES ROCHES. That is perfectly all right with me.

Mr. CLARDY. If that will accommodate them, that is perfectly all right.

Mr. DES ROCHES. Anything to "expedite" the matter.

Mr. CLARDY. If we may borrow that phrase.

Mr. BARKELL. All right. You may call your next witness, please, Mr. Yockey.

Mr. HARRY YOCKEY. Your Honor, I think that these witnesses have not been sworn. Do you want to swear them all at once?

Mr. BARKELL. Has this first witness been sworn?

Mr. HARRY YOCKEY. No.

CLAUDE H. CATON was sworn and testified as follows:

Direct examination by Mr. HARRY YOCKEY:

Q. Mr. Caton, you may state your full name to the Board, please.

A. Claude H. Caton.

Q. Where do you live?

A. Lagrange, Indiana.

By Mr. ANDERSON:

Q. Where?

A. Lagrange, Indiana.

304 Q. Where is Lagrange?

A. The county seat of Lagrange County, in the northern tier of counties, in the state.

By Mr. HARRY YOCKEY:

Q. Is that north of Fort Wayne——

Mr. EGGERS. Just a moment, please. I still do not get the name.

Mr. BARKELL. Talk a little louder, please.

The WITNESS. Caton.

By Mr. CLARDY:

Q. Let us have your full name again, will you, please, Witness.

A. Claude H. Caton.

Mr. BARKELL. Proceed.

By Mr. HARRY YOCKEY:

Q. Now, is Lagrange, Indiana, on the Pennsylvania Railroad?

A. Yes.

Q. Is it north of Fort Wayne?

A. Yes, sir.

Q. In what business are you engaged?

A. Furniture and undertaking.

Q. What is the name of your firm?

A. Caton Brothers.

Q. Are you one of the partners in the business?

A. I am.

Q. Mr. Caton, have you had explained to you what this particular type of service is, that is being sought here?

305 A. Why, in a roundabout way, I would say, it has been talked about; yes, sir.

Q. Have you had it explained to you that there is sought here to transfer—or rather, I should say, to substitute a motor carrier service along this particular segment of the railroad that you are located on?

A. Yes.

Q. And has it been explained to you that it is proposed to operate a truck from Fort Wayne, Indiana, to Kalamazoo, Michigan, in station-to-station all-rail service, for less than carload freight?

A. Yes, sir.

Q. Has it also been explained to you that by doing that, there will be an expedition of at least 24 hours in the movement of your freight?

A. Yes, sir.

Q. Well, now then, are you acquainted with the inbound and outbound shipments of your company in your business?

A. (No answer.)

Q. That is, over the Pennsylvania Railroad?

A. I do not quite understand.

Q. Well, then, let me put the question this way: do you have occasion to ship over the Pennsylvania Railroad, or to receive shipments over the Pennsylvania Railroad?

306 A. Yes, sir, we do, although I might say, we receive more shipments than we send out. We do very little shipping out.

Q. But you do receive shipments over the Pennsylvania Railroad?

A. Yes, sir.

Q. For how long a time have you been receiving such shipments?

A. 30 years.

Q. Where do your shipments come from?

A. Oh, they come from a great many points—well, I would say, the points are almost numberless, that they come from. I don't know that I could enumerate them all, by any means. Some come from Indianapolis, Indiana; some come from Richmond, Indiana; some come from Cincinnati; and some come from the southern states.

Q. Do you get any from Chicago?

A. Yes, sir, we get some shipments in from Chicago; and we also have some shipments that come in from Grand Rapids and Detroit.

Q. Well, now, Grand Rapids and Detroit are in Michigan.

A. Yes.

Q. Now, then, excluding the shipments from Indianapolis as not being involved here, because Indianapolis is in Indiana—you understand?

A. Yes.

Q. And we want your answers to go only to interstate commerce, that is, from points outside the state of Indiana—

A. I see.

307 Q. Do you have any shipments that come into you from Chicago?

A. Yes.

Q. Of what do those shipments consist?

A. Caskets and furniture.

Q. And how do you receive such shipments?

A. Well, they generally do not come in at regular intervals.

Q. Will you describe how they do come.

A. Well, we will get an order in maybe one week, and then maybe we will skip a week, or two weeks, or something like that; or maybe we will get in one order in between there.

Q. Well—

A. It is kind of hard to answer a question of that sort exactly, you understand, unless a man would go and check on his books.

Q. Well, just speaking generally, would you say you get as many as one a week?

A. Oh, yes.

Q. And what will be the average weight of the particular shipments that you get in from Chicago?

A. (No answer.)

Q. That is, approximately. I am not trying to pin you down here to any exact figures.

A. Well, if we buy a suite, it will probably run from 400 pounds to 500 pounds, or maybe 550 pounds.

Q. Consisting of what commodities again?

A. How?

308

Q. Is that furniture and caskets?

A. No.

Q. What is that?

A. That would be a bedroom suite.

Q. Now as to Detroit: how frequently do you receive shipments from Detroit—and when I ask you that, I mean over the Pennsylvania Railroad in less than carload quantities?

Mr. ANDERSON. Now, just a moment. To which we object, if the Board please, on the ground that that is not involved here. That is going beyond the issues.

Mr. BARKELL. Where is Detroit involved in this application, Mr. Yockey?

Mr. HARRY YOCKEY. Pardon me?

Mr. BARKELL. Just how is Detroit involved in this application?

Mr. HARRY YOCKEY. He is in Indiana.

Mr. ANDERSON. That is correct, but then, Detroit is not on this route here.

Mr. HARRY YOCKEY. Well, but it comes via the Pennsylvania Railroad.

Mr. ANDERSON. But what does that have to do with any issue here? Chicago, about which you first asked him, has nothing to do with the issue here. They already have authority to give service from Chicago.

Mr. HARRY YOCKEY. He is on this particular route from 309 Fort Wayne; that is, the freight from Detroit comes down to Fort Wayne, and then goes up to his place. The freight from Chicago come from Chicago over the Pennsylvania Railroad to Fort Wayne, and then goes up to his place.

Mr. ANDERSON. Is that true also in the case of Detroit, did you say?

Mr. HARRY YOCKEY. Yes.

Mr. ANDERSON. And it goes to Fort Wayne first?

Mr. HARRY YOCKEY. Yes.

Mr. ANDERSON. And then goes to his town?

Mr. HARRY YOCKEY. Yes, it comes into Fort Wayne first, and then goes up to his place.

Mr. ANDERSON. Well, all right.

Mr. BARKELL. The objection is overruled, then.

Mr. ANDERSON. That is all right.

Mr. CLARDY. I do not think it is material, either, your Honor, but maybe it would be grist for our mill, so I am not going to object.

Mr. HARRY YOCKEY. Oh, it probably will be grist for your mill, yes.

By Mr. HARRY YOCKEY.

Q. The question was, Mr. Caton, how frequently do you receive your shipments from Detroit?

A. Well, now, I believe I would be safe in saying one a week.

Q. Once a week?

A. Yes, sir.

310 Q. And what is the usual weight of those shipments?

A. (No answer.)

Q. Approximately will do.

A. Well, they will run, I would say, from occasional chairs up to refrigerators. That will give you some idea.

Q. Consisting of what?

A. How?

Q. Those shipments from Detroit, consist of what?

A. Well, they will run in weight from a low of possibly 35 pounds up to 250 or 300 pounds.

By Mr. CLARDY:

Q. What was that latter figure?

A. Pardon me?

Mr. CLARDY. Read the answer, please.

(Answer read.)

The WITNESS. From 30 to 250 pounds, up to possibly 400 pounds, I would say.

By Mr. HARRY YOCKEY:

Q. Now, from Grand Rapids, when do you receive those shipments?

A. When?

Q. I mean, how frequently do you receive them?

A. I would imagine about the same.

Q. Once a week?

A. Yes, sir.

Q. And about what would be—or what is the average weight of those shipments?

311 A. 150 pounds.

Q. Of what do they consist?

A. Caskets and furniture.

Q. Now, did you also say that you receive shipments from Cincinnati, Ohio?

A. Yes, sir.

Q. How frequently do you receive those shipments?

A. Not very often.

Q. Well, how often?

A. Well, that is a little bit hard to say. Probably one every two months, I guess.

Q. All right. And the average weight of those shipments is what?

A. Oh, those particular shipments will run from around 250 pounds up to about 400 pounds, I should judge.



Q. Are those caskets?

A. Yes, sir.

Q. Now, do you have any shipments coming in from points in the state of North Carolina?

A. Yes, sir.

Q. From how many such points?

A. Well, now, let me see. There would be about four or five points, I should say.

Q. And how frequently do those shipments come in to you from North Carolina points?

A. Oh; I would imagine about two a month.

312 Q. About two a month?

A. Yes.

Q. And the average weight of those shipments is what?

A. From 400 pounds to 500 pounds.

Q. What do they consist of?

A. Oh, armchairs and dining room furniture.

Q. Well, now then, if this particular rail-truck service is instituted, and if it will expedite the movement of your freight by 24 hours, will that be of any benefit to you in your business?

A. No doubt.

Mr. BARKELL. What is the answer?

A. Yes.

By Mr. HARRY YOCKEY:

Q. And will that serve the convenience and necessity of your particular business?

A. It will help us, I think; yes, sir.

Q. If that service is instituted for The Pennsylvania Railroad by The Willett Company, will your company continue to use the Pennsylvania Railroad rail-truck service?

A. (No answer.)

Q. I mean, will your company continue to use the Pennsylvania Railroad, and avail itself of that service?

A. Why, yes, sir; we will—as much as we ever have, at any rate, I would say.

Q. You would like to have that service, would you?

318 A. Yes, sir; I really think I would.

Mr. HARRY YOCKEY. That is all.

Mr. BARKELL. Cross-examine.

Cross-examination by Mr. ANDERSON:

Q. I am sorry, Mr. Witness, but I did not just get your business. Undertaking and—what?

A. Furniture.

Q. Undertaking and furniture?

A. Yes, sir. We have a combination business there. We are in the undertaking business, and we are also retail furniture dealers.

Q. I see. Now, you have been using the Pennsylvania Railroad service, I believe you testified, for 30 years or thereabouts; is that correct?

A. Yes.

Q. How long, if you know, and if at all, have you been using any Willett Company service—Willett Trucking Company service?

A. Willett Trucking Company?

Q. Yes.

A. Why, I don't remember of ever having used any service of The Willett Company.

Q. You do not know that you are using it now?

A. No.

Q. It is the service of the Pennsylvania Railroad, as far as you are concerned, is it?

A. Well, I don't know—

Mr. HARRY YOCKEY. Pardon me, Mr. Anderson, but there is nothing in the evidence to indicate that he has been using it.

A. (Continuing.) I don't think that they make Lagrange. That is, I don't believe that The Willett Company makes Lagrange. Maybe it does. I wouldn't say positively about it. I don't think it does.

By Mr. ANDERSON:

Q. Do you know anything about The Willett Company?

A. No, sir.

Q. You do not know anything about any connection that they might have with the Pennsylvania Railroad, then?

A. No.

Q. You are receiving your shipments that come into you from Carolina points by The Pennsylvania Railroad satisfactorily, are you not?

A. Yes.

Q. You do not have any complaint to make about that service, do you?

A. Well, if they didn't bust so darned much of our stuff up, I wouldn't have any complaint, no.

Mr. HARRY YOCKEY. Just a moment, please. I could not hear that answer. Will you say that again?

The WITNESS. I say, if they didn't bust up so darned much, there wouldn't be any complaint. That is the only thing, that is the only complaint.

By Mr. ANDERSON:

Q. Yes.

A. But then, I suppose you would have that same difficulty with any railroad system. I don't know.

Q. I suppose. I take it that The Pennsylvania Railroad is not any worse in that regard than any other railroad.

A. No.

Q. As far as the time element is concerned, they bring your shipments in by rail from the Carolina points promptly, do they not?

A. Oh, I suppose they do, yes, sir.

Q. Well, do you know—

A. We never have used any other service, so I don't know. I suppose so, though.

Q. So that whether The Willett Company, the applicant in this proceeding, is ever authorized to render the service asked for between Fort Wayne and Lagrange, Indiana, or not, your furniture would still come in from the Carolina points direct to Lagrange by the Pennsylvania Railroad, would it not?

A. Why, yes, sir, I assume that it would—unless, of course, they changed their system.

Q. So that it would not help you any there, would it?

A. (No answer.)

Q. How?

316 A. Well, I don't know.

Q. Now, as to Detroit, these shipments which you get about once a week, that weigh from about 35 pounds up to 250 pounds: do those shipments come into you from Detroit by the Pennsylvania Railroad?

A. Yes, sir; if they come in by rail.

Q. Pardon me?

A. If the stuff comes in by rail, yes, sir, it comes over the Pennsylvania Railroad.

Q. Well, that freight usually comes in by truck; though, does it not?

A. Some of it.

Q. Some of it?

A. Yes.

Q. What truck line?

A. Oh, various lines.

Q. What are some of them?

A. Well, now, let me see. There is O. I. M. Transport Corporation; there is Matthias; and Mills.

Q. And that is all good service, is it not?

A. (Nodding head "Yes.")

Q. What is the answer?

Mr. BARKELL. You will have to speak up.

Exam. HARRISON. Speak out, so the Reporter can get it into the record.

317 A. I am sorry. Yes, sir—as well as can be expected, I imagine.

By Mr. ANDERSON:

Q. Referring to O. I. M. Transit Corporation, one of the protestants in this case: you have used their service regularly, have you?

A. Yes, sir.

Q. You have no complaint to make against the service that has been rendered you by O. I. M., have you?

A. No.

Q. Now, you use what other carrier or carriers, did you say, from Detroit?

A. Well, we don't use them, you understand. It just depends on the way the shipments happen to be billed into us, out of Detroit.

Q. But what were the other carriers that you mentioned a moment ago? Did you say Mills?

A. Matthias and Mills.

Q. Matthias?

A. Yes.

Q. And Mills?

A. Yes, sir.

Q. All right. Now, as to Cincinnati, Ohio, that is out, I take it, because The Willett Company would not operate out of Cincinnati.

A. Probably not.

318 Q. You receive shipments via The Pennsylvania Railroad from Cincinnati about once a month, did you say?

A. Well—

Q. Or every two months?

A. Yes, sir; that often, anyway.

Q. And that is as good a service, now, is it not, that you find necessary in your business?

A. Yes, I would say so.

Q. Now, as to your Grand Rapids, Michigan, shipments: you receive about 150 pounds, once a week, from Grand Rapids; is that correct?

A. Yes.

Q. How are you getting them now?

A. Pennsylvania.

Q. Pennsylvania Railroad?

A. Yes, sir; I would imagine.

Q. And that service is satisfactory, is it?

A. Why, yes.

Q. In other words, then, with the service which you are receiving at the present time, both from the Pennsylvania Railroad, as it is now operating, and from the various trucking lines that are serving you, I take it that your transportation needs are adequately served, are they not?

A. As best I know.

Mr. ANDERSON. That is all.

319 A. (Continuing.) That is, I would qualify that, if I may—

By Mr. ANDERSON:

Q. Yes?

A. Unless they could improve on the service in some way or other, of course.

Q. Well, but you have made no complaint—or you have no complaint to make about any of these services, have you?

A. No.

Q. And they are satisfactorily meeting your needs, are they not, in that you have lost no business—have you?

A. (No answer.)

Q. I mean, by reason of your transportation facilities.

A. No.

Q. Your business is growing, in other words, and increasing right along, is it not?

A. Well, a little.

Mr. ANDERSON. Thank you.

By Mr. CLARDY:

Q. Witness, do you have any knowledge of how The Pennsylvania Railroad Company handles any shipments that you may receive from Chicago?

A. From Chicago?

Q. Yes.

A. Why, no, sir, I can't say that I have, although I have always supposed that they came direct over the Pennsylvania system.

Q. Well, by my question I am merely seeking to find out if you know through what points your shipments may travel in  
320 coming to you from Chicago when the Pennsylvania system is used?

A. No, sir; I do not. As I say, I always supposed that they came by way of Fort Wayne, but that is merely a supposition on my part. I do not know.



Q. Well, now, in connection with the movements which come into you from Chicago; are they all exclusively handled by the Pennsylvania Railroad?

A. Exclusively?

Q. Yes.

A. Well, now, as far as that is concerned—well, I couldn't answer that question.

Q. Do you know?

A. No, sir; I wouldn't be able to tell you, although I have always supposed that they were.

Q. However, you have never checked up—

A. No.

Q. To see whether or not that is the fact?

A. No, sir.

Q. Have you ever received anything from Chicago by way of any motor carrier?

A. Motor carrier?

Q. Yes.

A. Why, yes, sir; we have received some, but not very much, I would say.

Q. Not what?

321 A. Not very much.

Q. Can you recall whether those shipments were routed by you, or by the shipper at Chicago?

A. By the shipper at Chicago.

Q. Do you recall the name of the carrier, or carriers that furnished that service?

A. No.

Q. Do you know whether or not that operation was one passing through Fort Wayne, or did it come through some other route, or via some other route?

A. Well, I wouldn't imagine that it would come through Fort Wayne, that particular movement; no, sir.

Q. Because that would be out of the way?

A. Yes, sir.

Q. Do you know, or do you recall anything about the time element involved in getting those shipments to you by truck line from Chicago?

A. The time in transit?

Q. Yes.

A. Why, yes, sir. It is a little bit slow—if that is what you are driving at.

Q. How slow is it as compared with the rail service by way of Fort Wayne?

A. I think it is slower.

Q. Slower than the rail service?

322

A. Yes.

Q. How many days are consumed by rail?

A. I would say about three days.

Q. From Chicago?

A. Yes, sir.

Q. Now, can you recall precisely how many days were involved in getting those truck shipments in?

A. Well, it was several days, although I wouldn't be able to give you the exact time, because I know that we were very anxious for the goods, and in some way or other, they got mixed up in transfer, and they did not come by way of the direct line, but they came into South Bend, and they were transferred to one of the other lines, or else they just laid over there, or something, and we had to follow the shipment up. But to give you the exact time it took en route, I wouldn't be able to do that.

Q. Well, then, you would not recall at this time whether that exceeded three days or not, would you?

A. Well, I know—at least, I believe I would be safe in saying that it was considerably over that; yes.

Q. Considerably over that.

A. Several days over that.

Q. That is, over three days.

A. Yes, sir.

Q. Now, that was the only shipment that you ever had by truck from Chicago, was it?

323

A. Oh, no.

Q. Oh, you have had other shipments?

A. Yes, sir.

Q. Well, then, what is the normal truck time on shipments moving by truck from Chicago to your town?

A. I would say, about three days.

Q. About the same as the railroad time?

A. Yes.

Q. What carrier furnishes that kind of service?

A. Matthia; and Mills.

Q. Do they operate directly from Chicago?

A. They operate out of South Bend, Indiana. I believe that their headquarters are in South Bend.

Q. Is there any line, any truck line, that operates out of Chicago—or rather, are you familiar, Witness, with the truck lines, so that you can tell me whether or not there is any carrier operating out of Chicago directly into South Bend on its own route?

A. I don't know that.

Q. Pardon me?

A. I don't know what the routes are; that is, I don't know what the lines are running from Chicago to South Bend.

Q. You have not made any investigation into that subject, have you?

A. No.

324 Q. All right. Now, with regard to shipments coming to you from Detroit, Michigan, you do know that O. I. M. Transit Corporation has served you from Detroit; is that correct?

A. Yes, sir.

Q. And I believe you also mentioned some other carrier as bringing you shipments from Detroit. Who was that?

A. From Detroit?

Q. Yes.

A. Well, sometimes they change them, you understand, and they ship them to South Bend, Indiana, from Detroit; and then they double back—or something like that.

Q. O. I. M. does not do that, though, does it?

A. No.

Q. Well, what is the other carrier, or who is the other carrier that you named a moment ago, that operates out of Detroit?

A. Well, I don't know just exactly who does operate out of Detroit, but the Mills people pick it up at South Bend—that is, either the Mills people, or the Matthias people, and double back with it.

Q. That is, at your suggestion?

A. Oh, no.

Q. That is done by the shipper?

A. Yes.

Q. You have never suggested to the shipper that he route his shipments by some line that comes in directly, have you?

325 A. Yes.

Q. But the shipper still insists on using Mills, or this other carrier?

A. Some of them do; yes.

Q. Well, now, when you have a load that is handled for you by O. I. M. Transit, how long does it take to get your freight from Detroit?

A. Oh, I would say, perhaps two days.

Q. Two days?

A. Yes.

Q. And how long does it take you to get your freight when it comes via the Pennsylvania Railroad?

A. (No answer.)

Q. Or do you know that?

A. No, sir; I don't know that, and I have never checked up on it to see.

Q. Well, you appreciate the fact, I take it, Witness, that if the freight comes in by railroad, it travels a considerable distance further, do you not?

A. Why, I wouldn't say that; no, sir. The O. I. M. Transit takes the shipments into Fort Wayne, and then it doubles back, as I explained to you a minute ago, to Lagrange out of Fort Wayne.

Q. They do not pass through Lagrange?

A. No.

Q. Except in one direction?

326 A. That is all.

Q. Are you sure of that?

A. Why, I think I am, yes, sir; as a matter of fact, I am quite positive of it.

Q. Do they maintain any facilities in the way of a terminal, or anything else, at your town?

A. Oh, they have a distributor there.

Q. An agent?

A. Yes, sir—well, now, I don't know whether you would call him an agent or not—but they unload their freight, their local freight, at his dock there.

Q. I see.

A. And he distributes it around the town to the various merchants in the town there.

Q. All right. Now, you said something, I believe, about shipments, from Grand Rapids, Michigan.

A. Yes.

Q. Those shipments are being handled exclusively by rail at the present time, are they?

A. Yes.

Q. Has the railroad company given you any explanation as to how they would handle a shipment from Grand Rapids, if this application were to be granted?

A. No.

Q. It has not?

327 A. No, sir.

Q. You do not know, then, whether or not the granting of this application would affect your movement from Grand Rapids, do you?

A. No.

Q. Do you know whether or not the granting of this application will actually affect your movement from Detroit?

Q. A. Why, no, sir; that is, naturally, from an actual standpoint, I wouldn't be able to say that right now.

Q. Do you know whether or not it will have any affect at all upon your movement from Chicago?

A. No.

Q. Or from any other point?

A. No.

Q. Now, Witness, as I understand it, you do not ship anything out-bound from Lagrange; is that correct?

A. Well, very little. Just little, small shipments would be all; practically nothing.

Q. It has been a long time since you have had anything moving out-bound; has it not?

A. Yes.

- Mr. HARRY YOCKEY. Now, just a moment. - I want to object, if the Board please. Counsel is getting into a field now that I did not explore on the direct examination of this witness at all.

If he wants to develop it for us, that is all right, but  
328 since we did not go into it, I do not think he should take up time with it now.

Mr. CLARDY. Well, you did develop, I think, all that is necessary in this particular connection. He says he does not do very much shipping out-bound.

The WITNESS. That is correct, just a very few. There would be just a few little minor shipments out. If there is somebody going to ship some household goods, and he hires us to crate them, and ship them out, why, occasionally we will do that.

By Mr. CLARDY:

Q. That is true only on very rare occasions, is it not?

A. Yes.

Q. Now, Witness, you said something about the railroad busting up your furniture—or your shipments, I believe.

A. Yes.

Q. Would you just go into a little bit more detail for us in that connection. What do you mean by that?

A. I mean by that, that the help is careless. It is not the fault of the railroad, I would say.

Q. Do you mean it is the employees?

A. Yes, sir.

Q. Well, the employees really constitute the railroad, do they not?

A. Well, I don't know just how you would consider that:  
329 I could not answer that question.

Q. Well, at any rate, Witness, the employees of the railroad, you say, are too careless in the handling of your merchandise; is that right?



A. Why, some of them, at least, are; yes, sir. Some of them are very careless with it.

Q. So that the furniture arrives with the crates broken, does it?

A. Some of it.

Q. And the furniture is scratched and damaged; is that what you mean?

A. Some of it, yes, sir.

Q. And how about the caskets that you mentioned; do they occasionally damage those also?

A. Well, sir, as far as the caskets are concerned, we have never had one damaged, that I know of.

Q. Is that because they are crated so well—

A. I guess so.

Q. And it is difficult to damage them?

A. Yes, sir.

Q. Well, now, Witness, do you have any idea that the granting of this authority will reduce the busting-up of your furniture, as you describe it?

A. I could not answer that question.

Q. You do not know?

330 A. No.

Q. Do you have the knowledge that if this affects you in any way, it will involve a transfer of the merchandise from a car to a railroad dock, and then from a dock into at least one truck?

A. (No answer.)

Q. Do you know that?

A. No, sir; I don't know how it would be handled.

Q. Would it be your judgment that the more transfers there are en route of the merchandise, the greater the possibility, or chance, of busting-up your furniture?

A. How is that again?

Mr. CLARDY. Read it, please.

(Answer read.)

A. No.

By Mr. CLARDY:

Q. Oh. You think, then, do you, the more transfers there are en route, the less chance there is of busting-up the furniture?

A. No, I wouldn't say that, either.

Q. Well, do you think that would have any effect at all on the possibility of damage to your shipments?

A. Well, I will answer the question this way, I will make this statement, that if your shipments are handled directly by the railroad all the way through, and you happen to have a damage claim, you will be much more apt to get a quicker return from

331 handling your damage claim with the one claim department, than you will be if you have to go through two or three trucking companies with it.

Q. Have you been having claims with the railroad right along?

A. Yes.

Q. To a considerable amount?

A. Well, in a great many instances our claims will amount to more than the freight charges.

Q. Now, do you know at present time anything about the identity and the number of motor carriers that are operating between Grand Rapids, Michigan, and your town of Lagrange, Indiana?

A. No.

Q. Have you ever used the service of any motor carrier operating between those two points?

A. Not to my knowledge.

Q. You do know, however, do you not, Witness, that there are motor carriers operating between those points?

A. Well, I have always supposed that there were, yes, sir. I imagine that there are carriers serving Grand Rapids.

Q. But you have not checked to discover that?

A. No.

Q. Was that because the type of service which you are receiving and have been receiving from the railroad, was good enough to take care of your needs?

332 A. Yes, sir.

Q. And with respect to the truck lines that are operating from the other points which you named, Chicago, Cincinnati, and Detroit: do you know anything about the identity and number of motor carriers operating between those points and your town?

A. Well, now, I am not positive about it, but I have always understood that the O. I. M. Transit was the only one that had a franchise for local stops. Of course, there are other lines going through there both ways, but I am not just familiar with the trucking situation.

Q. I see. You have made no investigation, I take it—

A. No.

Q. To discover that fact?

A. No; I haven't.

Q. And is the reason why you have not made such an investigation there the same as you stated in the case of Grand Rapids?

A. Yes.

Q. That is, because you have been satisfied with the kind of service which you have been receiving from the railroad company?

A. Yes, sir.

Mr. CLARDY. That is all.

Mr. BARKELL. Are there any further questions of the witness?

Mr. DES ROCHES. I have one or two questions, your Honor.

By Mr. DES ROCHES:

333 Q. Mr. Witness, who asked you appear here today?

A. (No answer.)

Q. Was it a representative of The Willett Company, or of The Pennsylvania Railroad Company?

A. I don't know.

Q. You do not know?

A. No, sir, I don't know who he was—that is, there was a gentleman interviewed me, but I don't know who he represented; whether he represented the railroad company, The Pennsylvania Railroad Company, or The Willett Company.

Q. Who was that gentleman?

A. I say, I don't know who he was.

Q. Do you know his name?

A. I have forgotten his name.

Q. Is he here today?

A. Christie, I believe.

Mr. BARKELL. Mr. Christie?

Mr. HARRY YOCKEY. Christie?

The WITNESS. Yes; that is right.

By Mr. DES ROCHES:

Q. The gentleman who testified here?

Mr. CLARDY. The witness who was on the stand yesterday.

The WITNESS. I guess so.

By Mr. DES ROCHES:

Q. Did you state that The Willett Company has an agency in your town?

A. No.

334 Q. Has it?

A. Not that I know of.

Q. Not that you know of?

A. No.

Q. Now, at the present time, with the motor-carrier service that you are receiving, you are getting a store-door delivery, are you not?

A. Yes.

Q. What representations, or what promises, if any, has The Willett Company made you in connection with store-door delivery?

A. (No answer.)

Q. Let me put the question to you this way: do you understand that you are to get a store-door delivery of your merchandise, or a station delivery?

A. Do you mean if this goes through?

Q. If the authority which is sought in this application is granted, yes.

A. Well, I supposed that it was to be handled the same as the Pennsylvania Railroad. That is, for a nominal extra charge the Pennsylvania Railroad gives us store-door delivery.

Q. For an extra charge?

A. Yes, sir.

Q. Well, now, what representations, if any, have actually been made to you by The Willett Company in connection with store-door delivery?

335 Mr. HARRY YOCKEY. Just a moment.

A. None—

Mr. HARRY YOCKEY. Just a moment, please, Mr. Witness.

The WITNESS. Pardon me.

Mr. HARRY YOCKEY. All right. Go right ahead.

A. None, that I remember of.

By Mr. DES ROCHES:

Q. None, that you remember of?

A. No.

Q. Well, do you understand the situation to be that the delivery of your merchandise will be made to the station of the Pennsylvania Railroad up there at Lagrange, and you will have to pick it up with your own equipment, or make other arrangements for handling it?

A. There was nothing of that sort that entered into the conversation, that I remember anything about.

Q. Nothing was said about that?

A. No.

Q. Is that a factor that you were interested in?

A. Sir?

Q. I say, is that a factor, is the matter of the delivery of your merchandise, a factor that you are interested in?

A. To a certain extent; yes.

Q. You are interested in store-door delivery, are you not?

A. Yes, to a certain extent.

Q. And you are getting that at the present time from the common motor carriers, are you not?

336 A. Well, yes.

Q. Pardon me?

A. Yes, sir, and also from the Pennsylvania Railroad.

Q. How are they making the delivery of your shipments to you at the present time?

A. By dray.

Q. Dray?

A. Yes, sir.

Q. What is the name of the drayman?

A. I think they have an agent there.

Q. What is his name?

A. Mr. Roy Macklin.

Q. Now, were any representations made to you by The Willett Company or by The Pennsylvania Railroad Company in connection with a saving in time, in connection with deliveries made by The Willett Company?

A. Well, now, if I remember correctly, they said that they thought they could give a better service by this new arrangement, than they could by their local freight.

Q. But they did not tell you exactly how much saving in time there would be, did they?

A. (Shaking head "No.")

Q. What is the answer?

Mr. BARKELL Answer out loud.

337 Exam. HARRISON: The Reporter does not get it when you shake your head.

A. No.

By Mr. DES ROCHES:

Q. Now, Mr. Witness, as I understand the situation, your transportation needs at the present time are, generally speaking, pretty well taken care of; is that correct?

A. Quite well, yes.

Mr. DES ROCHES. That is all.

Mr. BARKELL Is there any further cross-examination of the witness?

By Mr. CLARDY:

Q. Witness, would you be satisfied with the new, proposed service if in connection with that service you did not get store-door pickup and delivery?

A. Well, of course, we did get along without it for a long time, but then, that is problematical, really.

Mr. BARKELL Now, Mr. Clardy—

Mr. HARRY YOCKEY. I want to object to that question; your Honor, as not involved here.

Mr. BARKELL We are going to have to limit this cross examination. Hereafter, when you cross-examine a witness, you must complete your cross-examination at one time. We consumed a



very large amount of time here yesterday by repeated and repeated cross-examination by the same counsel. Now, hereafter, if we are ever going to get through with this case, you gentlemen will have to complete your cross-examination at one time.

338 Mr. CLARDY. I will endeavor to do that, your Honor.

Mr. BARKELL. All right.

Mr. CLARDY. But I do not think there should be any hard and fast rule about it. In other words, there are bound to be things come up, that are suggested, perhaps, from the bench, that prompt another question.

Mr. BARKELL. We still have a lot to do in this case.

Mr. CLARDY. I appreciate that.

Mr. BARKELL. And the time at our disposal just now is more or less limited. Therefore, hereafter we are going to insist on cooperation from counsel to avoid this endless repetition of cross-examination by the same counsel.

Mr. CLARDY. I will do my best, your Honor.

Mr. BARKELL. All right.

Mr. CLARDY. I will ask your permission each time, before I ask any additional questions. Of course, I am at this disadvantage, your Honor, that I cross-examine immediately following Mr. Anderson, ahead of all of these other gentlemen, and if something comes up that I have overlooked, I do not want to be cut off from going into it briefly, further.

Mr. HARRY YOCKEY. I want to object.

Mr. CLARDY. I want to ask a question—

Mr. HARRY YOCKEY. Just a moment, please, Mr. Clardy. I am objecting to the question, as not being involved here. May I have a ruling, please.

339 Mr. BARKELL. Read the question, please.

(Question read.)

Exam. HARRISON. He answered, did he not?

(Answer read.)

Mr. HARRY YOCKEY. He has answered the question, so there is nothing before the Board.

Mr. BARKELL. Are you through, Mr. Clardy?

Mr. CLARDY. Pardon me?

Mr. BARKELL. Are you through?

Mr. CLARDY. If he will finish his answer, I want to ask just one further question.

Mr. HARRY YOCKEY. He did finish his answer.

Mr. CLARDY. No, I do not understand that he did. He was right in the middle of it.

Exam. HARRISON. The Reporter has the answer in his book, Mr. Clardy. He just read it to you.

Mr. CLARDY. I know, your Honor, but he was just in the middle of a sentence there, as I understood it.

Exam. HARRISON. Read the answer again, please.

(Answer read.)

By Mr. CLARDY:

Q. Had you completed your answer?

A. I think I have gone far enough.

Mr. CLARDY. Well, then, your Honor, may I ask the witness one further question?

Mr. BARKELL. All right.

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By Mr. CLARDY:

Q. You say, it is problematical?

A. Yes.

Q. By that do you mean that you expect and want the pickup and delivery service to continue?

A. Why, yes; we would appreciate that.

Q. Well, it would not be a good service unless the pickup and delivery service were continued, would it?

A. No.

Mr. CLARDY. Thank you.

Mr. HARRY YOCKEY. Are the other gentlemen through?

Mr. BARKELL. Is there any further cross-examination of this witness? (No response.) Do you have any questions on redirect, Mr. Yockey?

Mr. HARRY YOCKEY. Yes.

Redirect examination by Mr. HARRY YOCKEY:

Q. Mr. Caton, in spite of the fact that you are at the present time receiving deliveries from motor carriers either from these same points or other points, or from these same points and other points as well, if Pennsylvania Railroad service, by the institution of this truck route of The Willett Company, will expedite your service, or give you at least 24 hours quicker service, you would like to have that, would you not?

Mr. KING. Just a moment.

Mr. MOERLY. Objection.

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Mr. KING. That identical question, your Honor, has been asked of this witness by counsel, and answered two or three times, now. This is merely repetition, incumbering the record.

Mr. HARRY YOCKEY. I never asked that question but once, myself, and then on cross-examination there was an attempt to tear the testimony down. Now, on redirect examination I submit, your Honor, that I have a right to ask the witness if in spite of this other service, he would still like to have the service as outlined.

Mr. MOBERLY. I object to the question, if the Board please, for the further reason that the question as put, contemplates a 24-hour faster service, a service that is faster than any other existing service. Now, that has not been shown at all here. The only expedition that has been shown at all here is one that will be over the existing rail service.

Mr. HARRY YOCKEY. Well, if there is any question about my question of the witness including all of the service, why, I will be glad to reframe the question.

Mr. BARKELL. All right.

Mr. HARRY YOCKEY. I only meant it to apply to the service of The Pennsylvania Railroad; that is, an expedition in the railroad service.

Mr. BARKELL. Ask your question over again, then.

By Mr. HARRY YOCKEY:

Q. Mr. Caton, if The Pennsylvania Railroad service by 342 the use of this Willett Company operation is expedited 24 hours, you would like to have that service; would you not?

Mr. MOBERLY. Pardon me, your Honor, but the objection interposed by Mr. King has not as yet been ruled on.

Mr. BARKELL. How is that?

Mr. MOBERLY. I say, Mr. King's objection has not as yet been ruled on, to that question.

Mr. KING. That is all right. I was merely objecting in the interests of time.

Mr. BARKELL. Answer the question.

A. Yes.

Mr. HARRY YOCKEY. That is all.

Mr. BARKELL. Are there any further questions of the witness, gentlemen? [No response.] If not, the witness may be excused. (Witness excused.)

Mr. BARKELL. You may call your next witness, Mr. Yockey.

Mr. HARRY YOCKEY. Mr. Button, please.

Mr. BARKELL. Have you been sworn?

Mr. BUTTON. No.

Mr. CLARDY. Your Honor, may I suggest that it will probably save half an hour's time, if we ask all of these witnesses who are present to stand up and be sworn at once. Then we can see the whites of their eyes right now.

Mr. HARRY YOCKEY. Yes; and then we can ask each of 343 them, as they come on, whether or not they have been sworn.

Mr. CLARDY. Yes. I see no objection to that.

Mr. BARKELL. I think that might save some time, as Mr. Clardy suggests.

Mr. CLARDY. And I understand you are concerned with that.

Mr. BARKELL. Yes. It may expedite the proceeding. All of

you gentlemen, you shippers, or any others, who are going to testify in this proceeding, please stand, raise your right hands, and be sworn.

(The witnesses were sworn.)

Mr. BARKELL. Proceed.

M. L. BUTTON was sworn and testified as follows:

Direct examination by Mr. HARRY YOCKEY:

Q. You may state your name.

A. M. L. Button.

Q. Where do you live?

A. I live in Allegan, Michigan, but I work in Plainwell.

Q. Plainville?

A. Plainwell.

Q. And where is Plainwell located, Mr. Button, with reference to Kalamazoo?

A. 12 miles north.

Q. What is your business?

A. Angle-Steel Stool Company.

344 Q. What is your capacity with that company?

A. Shipping clerk.

Q. Does your company know that you are present here as a witness in this proceeding?

A. Yes, sir.

Q. Do the representatives of your company understand that you are testifying here in connection with their shipments, and in behalf of their shipments?

A. Yes, sir.

Q. How long have you been connected with the company?

A. About eight years.

Q. And how long have you been serving the company in the capacity that you have stated?

A. Eight years.

Q. In your employment there, Mr. Button, are you acquainted with the in-bound and out-bound shipments of your company?

A. Yes.

Q. During that period what is the fact as to whether or not your company has used the services of The Pennsylvania Railroad?

A. We have always used them.

Q. In interstate commerce?

A. Yes.

Q. Now, in what business is your company engaged; that is, what does it manufacture?

A. Steel equipment of all kinds. We manufacture work  
345 benches, stools, chairs, cabinets, posture chairs—everything  
in steel.

Q. Now, did I ask you whether or not you are acquainted with  
the in-bound and out-bound interstate shipments of your com-  
pany?

A. Yes.

Q. You do have both in-bound and out-bound shipments, do  
you?

A. Yes, sir.

Q. Now, I am going to confine my questions entirely, Mr.  
Button, to the interstate shipments. What interstate in-bound  
shipments does your company have?

A. Well, we have castors from Bridgeport, Connecticut; we  
have seat caps from Philadelphia; rivets from New Brighton,  
Pennsylvania; iron and steel from Youngstown, Ohio—now, this  
is all over the Pennsylvania Railroad, of course.

Q. Yes, that is correct; that is all that I am asking you about.

A. All right.

Q. Just the Pennsylvania Railroad.

A. Then, we have—let me see—

Q. Do you have anything from Buffalo?

A. Yes, sir; seats and steel stampings.

Q. How about Louisville, Kentucky?

A. Varnish.

Q. Do you have anything from Cleveland, Ohio?

A. Rivets, bolts, nuts.

346 Q. Screws?

A. Yes.

Q. Well, now then, regarding each of these points, taking  
them one by one, as you have enumerated them: How frequently  
do the shipments from Bridgeport, Connecticut, come in?

A. Well, we most generally try to get a month's supply, so that  
they will come in all at the same time.

Q. A month's supply?

A. Yes.

Q. That is about once a month?

A. Yes, sir.

Q. From Bridgeport, Connecticut?

A. Yes, sir.

Q. Now, what is the weight, or what is the approximate weight,  
of the shipments from Bridgeport?

A. Oh, those shipments will run all the way from 1,000 pounds  
to 2,000 pounds, I should judge.



Q. All right. Now, the shipments from Bridgeport, Connecticut—

A. That was Bridgeport.

Q. Or rather, I mean, the shipments from New Brighton, Pennsylvania: how frequently do they come in?

A. Oh, those shipments will come in about once a week, I would say.

Q. Once a week?

A. Well, I will say, from once a week to twice a month.

347 Q. And what is the average weight of those shipments?

A. From 500 pounds to 1,000 pounds.

Q. Now, the shipments from Philadelphia, Pennsylvania: how frequently do they come in?

A. Oh, we will get those shipments in anywhere from once a month to once every two months, and we get quite a quantity of those.

Q. What is the average weight of those shipments?

A. Well, now, let me see. Those shipments will run—oh, probably from 2,500 pounds up to around 4,000 pounds, perhaps.

Q. All right. Now, taking the shipments coming in from Buffalo, New York: how frequently do they arrive?

A. About once a month.

Q. And what is the average weight of those shipments?

A. Well, they are heavy.

Q. How heavy will they run?

A. Oh, they will run up anywhere from—well, I will say, from 10,000 pounds up to around 20,000 pounds.

Q. All right. Now, the shipments from Cleveland, Ohio: how frequently do you have those shipments coming in?

A. That is hard to say.

Q. Approximately.

A. Well, I will say, approximately once a week, we will be getting a shipment in from Cleveland.

Q. And what is the average weight of those shipments?

348 A. About 500 pounds.

Q. 500 pounds?

A. 500 to 1,000 pounds.

Q. All right. Now, how about the shipments from Louisville, Kentucky? How frequently do those shipments arrive?

A. We get shipments in from Louisville about—well, once every two weeks, I will say.

Q. And the average weight of those shipments?

A. Around 1,000 pounds.

Q. 1,000 pounds?

A. Yes.

Q. Now, as I understand it, Mr. Button, all of these shipments that you have testified to are shipments that arrive over the Pennsylvania Railroad; is that correct?

A. Yes, sir.

Q. All right. Now, then, regarding your out-bound shipments: of what commodity or commodities do your out-bound shipments over the Pennsylvania Railroad, consist?

A. Well, the out-bound shipments would consist, naturally, of everything that we make, because we ship to all 48 states.

Q. What are some of the items?

A. Well, there are cabinets, stools, and chairs, and in addition to that, all kinds of special steel equipment.

Q. All right. Now, then, where are some of these points to which you ship from your place of business at Plainwell, on  
349 the Pennsylvania Railroad?

A. Well, different southern points in particular, in Virginia and West Virginia, and North Carolina, and points in through there.

Q. How many states do you ship into?

A. All of them.

Q. All of them?

A. All 48.

Q. And all of the shipments move out from that particular plant at Plainwell, Michigan, do they?

A. Yes, sir.

Q. Do they all go out over the Pennsylvania Railroad?

A. No, sir.

Q. Well, now, for the purpose of these questions, let us confine ourselves to the Pennsylvania Railroad.

A. All right.

Q. Does the Pennsylvania Railroad take shipments out of there that go into all of the 48 states?

A. Well—

Q. If you know.

A. The Pennsylvania Railroad does not get anything that goes into the state of Ohio, or the state of Indiana, usually, unless it is routed that way.

Q. I see.

A. Or Illinois, either, because it is to our advantage not  
350 to move the shipments that way; but in the case of anything that is going to move over a long stretch of territory, why, it will go out over the Pennsylvania Railroad.

Q. Well, now then, approximately how much Pennsylvania Railroad freight do you send out, as you have indicated?

A. Well, we send out anywhere from—

Q. That is, l. c. l.

A. L. c. l.?

Q. Less than carload.

A. Well, 50,000 pounds to 75,000 pounds per month.

Q. All of the shipments concerning which you testified, in connection with your incoming or inbound shipments; were less than carload shipments also, were they?

A. Yes, sir.

Q. Well, now then, has there been any explanation made to you by an employee of The Pennsylvania Railroad Company, as to what this service is, what this proposed truck service is that they want to institute?

A. Yes, sir.

Q. And was it explained to you that they would institute, if granted authority, a truck line carrying the less than carload freight from Kalamazoo to Grand Rapids, Michigan; that there would be a truck going from Kalamazoo to Grand Rapids, and a truck going from Grand Rapids to Kalamazoo; and that it would pick this freight up?

351 A. Yes.

Q. And was it also explained to you that by that service, in connection with the Pennsylvania Railroad, they would expedite your service 24 hours?

A. They explained that they hoped to.

Q. If the service was instituted?

A. Yes, sir.

Q. Well, now then, what kind of pickup and delivery service—or rather, first, does the Pennsylvania Railroad render you at this time any pickup and delivery service at Plainwell?

A. Why, they would if we required them to do so, but we deliver our own, it so happens.

Q. You deliver your own?

A. Yes, sir.

Q. And pick up your own?

A. Yes, sir.

Q. Has it been explained to you that The Willett Company does not propose to render any pickup and delivery service in your town, by reason of the fact that there is already a pickup and delivery service there by the Pennsylvania Railroad?

A. Yes.

Q. Now, then, if this particular service is instituted, and if they give you thereby an expedited service of 24 hours, through this rail-truck service of The Pennsylvania Railroad and The Willett Company, will that serve the convenience and  
352 necessity of your company?

Mr. MOBERLY. Just a moment.

A. Why, certainly.

By Mr. HARRY YOCKEY:

Q. And, would your company like to have it—

Mr. MOBERLY. Just a moment, please, Mr. Yockey. To which I object, if the Board please, for the reason that so far the only qualification that we have had of this witness is that this witness is shipping clerk for his company, and that he is familiar with the service that is being rendered. There has been nothing put into this record as yet to show that he can control or in any way direct the routing, or that he will control the routing on any of his company's shipments.

Mr. BARKELL. I think that is true.

Mr. MOBERLY. If they produced the traffic manager, or one of the other officers here, it would be another matter.

Mr. HARRY YOCKEY. To save time, I will withdraw the question.

By Mr. HARRY YOCKEY:

Q. Mr. Button, do you have anything to do with the routing of the shipments of your company, or directing how the shipments shall be routed?

A. Yes, sir.

Q. All right. Now, then, what is the fact as to whether or not your company would like to have this expedited service, if the authority is granted, as indicated?

353 Mr. MOBERLY. Just a moment. To which I also object, if the Board please. I do not believe the record shows yet as to just what this witness has to do with the shipments, or what his particular duties are. He may do nothing more than carry out orders from somebody else. I do not believe that the witness has been properly qualified as yet.

Mr. HARRY YOCKEY. Well, now, if your Honor please, I think that this is mere piffle.

Mr. BARKELL. Oh, we think the witness can answer the question, as far as his own knowledge goes of the subject.

Mr. CLARDY. May I observe also, in support of the objection, your Honor, that despite the authority that this man may have, he undoubtedly has superiors in his company who control the policy that is involved in that particular question.

Mr. BARKELL. Is there any question—

Mr. CLARDY. He might be in entire charge—pardon me—as far as the shipments are concerned, but that does not mean that he would determine a question of policy such as this.

Mr. HARRY YOCKEY. He says he does.

Mr. BARKELL. Well, the objection is overruled, and the witness may answer the question.

By Mr. HARRY YOCKEY:

Q. The Chairman has ruled that you may answer.

A. What is the question again?

Mr. HARRY YOCKEY. Read it, please.

354 (Question read.)

A. Well, I would answer your question in this way: We are confronted with the fact that we have got competition; we are located in Michigan, and our competition is located in the east, and around through Illinois; and 24 hours, of course will make a day, and now days people want things when they want them; they do not want to wait, and if we can get our shipments in 24 hours quicker, why, that is going to help our business, regardless of whether I have got any authority, or not. The company is going to demand that I get them in there the quickest way I can, and the customers are going to demand that I get them out the quickest way I can.

By Mr. HARRY YOCKEY:

Q. And you would like to have that service, would you?

A. Yes, sir.

Mr. HARRY YOCKEY. That is all.

Mr. BARKELL. Now, gentlemen, once again before we proceed with the cross-examination, let me ask you to proceed with the cross-examination in orderly fashion. Let us start with Mr. Anderson here, or his associate, and proceed in regular order around the table, and I think it will save time, Mr. Clardy, if you will take the witness last.

Mr. CLARDY. Well, it may or it may not save time, your Honor. I do not know. It might save time if I were to take him first.

355 Mr. BARKELL. Well, we will try it that way first, anyway.

Mr. CLARDY. I will be the clean-up man, then.

Mr. BARKELL. Right.

Mr. CLARDY. All right.

Cross-examination by Mr. MOBERLY:

Q. Mr. Button, how many common carriers by motor vehicle if you know, are at the present time serving your town of Plainwell?

A. Well, now, let me answer that question this way: There are a number of them that go through there, but I think that there are only about three or four that have P. U. C., so that they can stop there and pick up freight.

Q. Which ones are they?

A. Well, those are—I believe that they are Keeshin Motor Express; Associated Truck Lines; and Allegan-Kalamazoo Truck Lines.



Q. What was that last one again?

A. Allegan-Kalamazoo Truck Lines.

Q. Yes?

A. And also Clemens Truck Lines.

Q. How about Wolverine?

A. Wolverine, yes, sir; but then, as far as they are concerned, they do not have any regular schedule in there as far as I know.

Q. How many of the carriers that you have just named are you using at the present time?

356 A. We only use two.

Q. What are they?

A. Associated Truck Lines, and Allegan-Kalamazoo Truck Lines. Those are the only ones that we are using.

By Mr. EGGERS:

Q. Pardon me, Mr. Witness, but I still do not get the name of that truck line.

A. Which?

Q. The last one.

A. Allegan-Kalamazoo.

Q. Allegan-Kalamazoo?

A. Allegan-Kalamazoo Truck Lines.

Mr. EGGERS. All right.

By Mr. MOBERLY:

Q. Does Michigan Interstate serve Plainwell?

A. Well, now, they may, possibly. It is possible that they do, but they never come up our way, however.

Q. So that you have used only one or two of those common carriers, have you?

A. Common carriers?

Q. Yes.

A. Well, we have some truckers bring in truckloads there, but they are under contract with the steel company, the way I understand it.

Q. Do you mean by that, that they are under contract with the Angle Steel Stool Company?

A. No.

357 Q. With whom?

A. I mean by that, that they are under contract, as I understand it, with the steel companies that furnish our steel.

Q. I see. Well, now, what means of transportation is your company using at the present time for service from Plainwell to points in Indiana, Ohio, and Illinois?

A. Well, unless our customers route it, we use truck service.

Q. Either or both of the two carriers that you named a moment ago?

A. Well, Allegan-Kalamazoo Truck Lines are merely a pick-up line for the Universal Carloading Company, as far as we are concerned, although I will say that if they do have Sturgis trucks, or that is, Sturgis freight on their trucks, why, they will take it into Sturgis. But outside of that, why, Allegan-Kalamazoo Truck Lines use that—or rather, we use that line to pick up, for the Universal Carloading Company. But Associated Truck Lines handle it for us by transfer into other states, and they take care of that themselves to the best advantage for us, and we are very well satisfied with that service.

Q. You are satisfied with the service that you are receiving at the present time, are you?

A. Over that territory; yes, sir, for short hauls.

Q. And when you refer to "that territory" you mean the Indiana, Illinois, and Ohio territory that you mentioned before, do you?

A. Yes, sir. On the short hauls, of course, I suppose we could improve the service.

Mr. MOBERLY. I believe that is all.

By Mr. DES ROCHES:

Q. Mr. Button, are you using the service of any common motor carriers on your longer hauls at the present time?

A. Not if we can help it.

Q. You have never used the service of any?

A. Oh, yes; we have, when the order has come in routed that way.

Q. What common carrier service have you had occasion to use on your longer hauls?

A. Well, Associated Truck Lines has most generally taken the shipments into Detroit for us.

Q. Associated Truck Lines has been serving your company for a great many years, has it not?

A. Yes.

Q. And the service has been pretty good, has it not?

A. Well, yes.

Q. Generally speaking.

A. In the last five or six years.

Q. Yes. They have always had equipment available for your use; have they not?

A. (Nodding head "Yes.")

Q. And that is generally true—

Exam. HARRISON. Just a moment.

Mr. EGGERS. Speak out, please, Mr. Witness. The Reporter does not get it when you shake your head.

Mr. HARRY YOCKEY. Answer so the Reporter can put it in the record.

A. Yes.

By Mr. DES ROCHES:

Q. Your answer is "Yes"?

A. Yes.

Q. And that is generally true of the other common motor carriers also; is it not?

A. Yes, sir—it is generally true.

Q. That is what I say.

A. We have no complaint.

Mr. DES ROCHES. That is all.

By Mr. CLARDY:

Q. Witness, you are using on your in-bound movements a number of carriers that you did not name, but that are selected by the shippers, as I understand it. Is that correct?

A. Yes.

Q. Is Wolverine Express in that category?

A. Why, the Wolverine Express used to bring in to us paint from Chicago, but we were not able to depend on them, so that is brought in by Associated Truck Lines now.

Q. And Associated Truck Lines are handling that movement satisfactorily for you at the present time, are they?

A. Yes, sir.

Q. Now, in movements from these various towns that you have named—and I will just take them up with you in inverse order—from Cleveland, Ohio, are you using any motor carrier service?

A. No.

Q. There is no motor carrier serving you at the present time in either direction, so far as Cleveland is concerned, is there?

A. Well, once in a while we will send something up by motor truck, if the customer demands it.

Q. Do you have any in-bound movement from Cleveland?

A. Well, just once in a while, if they happen to ship it that way, we do; yes, sir. However, we prefer it by freight, if we can get it that way.

Q. Is Cleveland a point of your steel supply?

A. Rivets.

Q. For rivets?

A. Yes, sir; for steel rivets.

Q. And they come in—

A. In kegs.

Q. In fairly large quantities, do they?

A. They come in, in kegs. They do not come in in truckload lots or carload lots, but they come in in pretty good-sized quantities.

Q. Is there any advantage, any rate advantage, in using one type of carrier, as against another?

A. No.

Q. It is about the same on that score, is it?

A. The same rate; yes, sir.

361 Q. But with respect to the time of the rail service from Cleveland, what is the present time?

A. Well, we can get it in by freight in two days, but by truck we have never had it in, in less than four days, because it is held up in Cleveland—or rather, I mean, in Toledo.

Q. What line are you referring to?

A. Well, that I wouldn't be able to say, because when we make a complaint, or send a tracer through on something, they will say, "Well, it was held-up there." They have half a dozen different lines picking up at the terminal in Toledo.

Q. Do you have any knowledge as to whether there is any motor carrier that operates directly between Cleveland and your town?

A. No; there is not.

Q. Are you sure?

A. Not that I know of.

Q. Are you sure, Witness?

A. Well, now, I would not say positively about that, either, no, sir; because I never know when there is going to be a new truck line coming up through there.

Q. All right. Now, if the application here is granted, how do you understand that the shipments from Cleveland will move?

A. Well, that would be a hard question for me to answer right at this moment, because after all, I don't have anything to do with it, I don't handle the railroad routing, but I should judge that it would probably come into Kalamazoo, and be trucked up  
362 from Kalamazoo to us.

Q. Well, the question that was asked of you by counsel for the applicant here, mentioned only an operation from your town into Grand Rapids.

A. (No answer.)

Q. Did you catch that, when he asked the question?

A. I didn't understand it that way.

Mr. HARRY YOCKEY. I beg your pardon, Mr. Clardy. It was between Grand Rapids and Kalamazoo.

Mr. CLARDY. Your question implied, as I understood it, that his movement would be taken into Grand Rapids.

Mr. HARRY YOCKEY. My question was, from Kalamazoo to Grand Rapids, and from Grand Rapids to Kalamazoo.

By Mr. HARRY YOCKEY:

Q. Was that not the way you understood my question, Mr. Button?

A. Yes, sir.

Mr. CLARDY. All right.

By Mr. CLARDY:

Q. On the basis of that understanding, then, do you know which way the movements from Cleveland will come into your town?

A. (No answer.)

Q. In other words, will they come from Kalamazoo—

A. I don't know.

Q. Or will they come from Grand Rapids?

A. That I wouldn't be able to tell you. I don't know.

363 Q. Well, have you checked their schedules, to see any thing about the actual time that would be consumed if the railroad brought it in by truck?

A. No, sir; that is something that I haven't done, because I haven't seen any schedule of it.

Q. All right. Will you take applicant's exhibit No. 4 in this proceeding—do you have that before you?

A. Yes.

Q. All right. Now, looking at applicant's exhibit No. 4, so that you will have the situation in mind, I want to develop something. Assuming a shipment comes out of Cleveland, destined to your town of Plainwell, Michigan, by rail: do you have any knowledge as to whether it will go on a truck out of Fort Wayne, or not?

A. No.

Q. Pardon me?

A. I haven't; no, sir.

Q. Well, assuming, since the question implied otherwise, that it does not go on a truck until it gets to Kalamazoo, to take the nearest point: do you have the slightest knowledge as to how much time will be consumed in getting that shipment by rail to Kalamazoo?

A. No, sir; I haven't. I haven't any more idea of that right now, than you have, I suppose.

Q. Well, your knowledge is rather faulty, then.

364 A. Probably so.

Mr. HARRY YOCKEY. Very!

By Mr. CLARDY:

Q. You and J. Witness, are at a mutual disadvantage, because we have had to listen only to their witnesses so far.



A. Possibly so.

Q. Now, Witness, you heard their testimony, you heard the testimony of the applicant here, with respect to the fact that less-than-truckload shipments coming into Fort Wayne by rail, if they move out of there by truck, would go onto the truck and move out of there at once, did you not?

A. (No answer.)

Q. You heard that, did you not?

A. Well, the way I understand it, my understanding of it is this, that The Pennsylvania Railroad will pull the freight on the railroad as far as it can, and then when it gets to a place where it is slowed up, like between Kalamazoo and Grand Rapids, where our local train runs one day north and the next day south, the truck will speed up that service, because we will get one truck north and one truck south every day, rather than every other day.

Q. Well, now, we have not got the shipment to Kalamazoo yet, and I want you to help me get it there.

A. All right.

Q. If the movement is a less-than-truckload movement  
365 from Cleveland, do you understand that it will be moved in a car from Cleveland, destined to be opened only after it gets to Kalamazoo, or do you understand that it will come to Fort Wayne and be transferred there across the rail dock to another train, and then move up to Kalamazoo?

A. Well, that is a little bit hard to tell just at this time, how that will be, or how they will handle it.

Q. Well, if it should develop—

A. What we are worried about is how to get it in there.

Q. Well, we are, too. Now, if it should develop in this proceeding, that the movement will not be a through movement from Cleveland—and when I refer to a through movement, I am speaking of the kind that was mentioned here, that Mr. Christie mentioned, when he was talking about a movement of a solid car from New York to Grand Rapids—if it is not of that character, I say, but must be transferred from the car that brings it into Fort Wayne to the dock of the railroad company, and then be put into another car destined to move north to Kalamazoo, do you have any idea that the service up as far as Kalamazoo will be expedited one whit?

A. Well, as far as the transfer is concerned, it is probably no different from what any other company does, because at the present time, with our truck lines, they will pick it up there at Plainwell and take it into Kalamazoo and transfer it again.

Q. I am not speaking of that, Witness. I am speaking  
366 of your understanding of the service that is proposed here.

Do you anticipate that if it is handled that way, Witness, there will be any expedition of the movement, insofar as the operation up to Kalamazoo, as far as Kalamazoo is concerned?

A. As far as Kalamazoo is concerned?

Q. Yes, sir.

A. Well, no, sir; probably there will not be.

Q. All right.

A. It will be about the same.

Q. All right.

A. But from Kalamazoo to Plainwell, it will be different.

Q. Now, let us see. Do you know anything about the time that the train would get into Kalamazoo, bringing the merchandise that is to be transferred to the truck—

A. No.

Q. That is to bring it on to your town?

A. No, sir.

Q. Well, will you look again, please, Witness, at applicant's exhibit No. 4, which you have before you there.

A. Yes.

Q. You will notice there that the departure time out of Kalamazoo as far as Grand Rapids is 4 p. m.

A. Just a moment.

Q. Show in the third typewritten line.

Exam. HARRISON. The second schedule.

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A. Yes.

By Mr. CLARDY:

Q. Do you see that?

A. Um, hm.

Q. What is the answer?

A. Yes, sir.

Q. All right. Do you have the slightest knowledge as to whether or not, in every instance, the train that brings the merchandise into Kalamazoo, that is destined to your town, will get there in time to make that same time, that same 4 o'clock schedule?

A. No.

Q. Or have you been told anything about that?

A. I haven't any more knowledge—

Q. That I have?

Mr. HARRY YOCKEY. Than his faulty knowledge?

Mr. EGGERS. Off the record.

(Discussion outside the record.)

Mr. BARKELL. Back on the record. Proceed.

By Mr. CLARDY:

Q. The reason why I am asking you that, Witness, is because it has been stated here that the record is very clear. However, it is not clear to you yet, as to when that freight will be transferred to the truck, is it?

A. Well, as far as our interest in the proposition is concerned, the principal thing that we need is a 24-hour speeding up of the service.

368 Q. I appreciate that.

A. In other words, we do not care whether they actually get it in there late, so that it could not catch the train, or make that connection, or not; but if they will speed up the service, as far as the movement of any particular shipment is concerned, that is what we request.

Q. All right. Now, Witness, if you will just bear with me a moment; here, we will see whether or not we are going to get that for you.

A. All right. Of course, I might say, we don't know just exactly how it is going to work out, because they haven't tried it yet.

Q. You do not have any definite idea about it yet, do you?

A. Well, all that I have got is their word for it, that they are going to speed up the service.

Q. Yes.

A. And that is all that we are interested in.

Q. All right. Now, will you just bear with me for a few further questions, and we will get through just as quickly as possible?

A. All right, sir.

Q. Assuming for the sake of this new question, now, that the shipment comes in on a train that gets there too late to make that 4 o'clock departure time out of Kalamazoo. You will agree with me, then, will you not, that the shipment would have to wait over until 4 o'clock p. m. the next day?

369 A. Yes.

Q. At the present time if a shipment gets into Kalamazoo in the afternoon by train, does it go out on the way freight the next day, or every other day?

A. It is according to which end of the line the local happens to be at.

Q. Well, does it go every day, or every other day?

A. Every other day.

Q. Every other day?

A. From Kalamazoo.

Q. If it happens to get in there on the day before the train is due to go north, then it goes out on the way freight the next day, does it not?

A. Yes, sir; but it would have to get in there before 4 o'clock in the afternoon, because, you see, the local leaves Kalamazoo about 10 o'clock in the morning.

Q. About what time?

A. 10 o'clock in the morning.

Q. Well, assuming that the freight gets in there on the day before the scheduled departure of the way freight on the next day: then the truck service conceivably would be slower than the present train service, under those circumstances, would it not?

A. Well, under those circumstances, if the local did not have to set out and switch cars out on the line, switching all the way down the line, but could drop off our freight before it went down to the paper mill to switch, it would be; yes, sir.

Q. All right.

A. But otherwise, it is about three or four o'clock in the afternoon, before it gets in there.

Q. Out of Kalamazoo?

A. Yes.

Q. So it takes, then, pretty nearly all day to go from Kalamazoo to Plainwell?

A. According to how much work they have to do on the way down, that is correct; yes, sir.

Q. Well, now, what time do you close your receiving room each day?

A. Five o'clock.

Q. At five o'clock?

A. Yes, sir.

Q. So that if the truck out of Kalamazoo had anything to do before it got to your point, even if it made the four o'clock schedule, it might have to pass you up on that day, might it not?

A. No.

Q. Why not?

A. Because the truck would drop the freight off at the railroad station, and then we would pick it up at the railroad station the next morning.

Q. That is because you receive some sort of an allowance on the pick-up and delivery you make yourselves, is it?

A. Yes, sir.

Q. Well, then, on the day that the northbound local train does not run—

A. Are you talking about freight or truck, now?

Q. Freight.

A. All right.

Q. If, under the circumstances that you have just described, the freight gets in there after four o'clock in the afternoon, or too late to make the four o'clock proposed truck departure time, you

would get exactly the same delivery time by the truck as you get at the present time by train, would you not?

A. Well, if it wouldn't be any worse than it is now, it would be all right, I would say.

Q. All right. Let me ask you this question, then: wherein, if the freight must move all the way to Kalamazoo by train, is there any possibility, that has been explained to you, of any expedition in your inbound movement from Cleveland?

A. Getting it out of Kalamazoo.

Q. Well, now, Witness, we just went over how we are going to get it out of Kalamazoo, did we not?

A. Yes.

Q. Would you point out to me—

A. You and I went over it, as to when the delivery was made.

372 Q. Yes.

A. That is right.

Mr. BARKELL. Just a moment, Mr. Clardy. Are you trying to have this witness explain this schedule?

Mr. CLARDY. How is that, your Honor?

Mr. BARKELL. I say, are you trying to have the witness explain this schedule?

Mr. CLARDY. No.

Mr. BARKELL. It may be that he does not understand the working of this schedule himself.

Mr. CLARDY. No, your Honor, but—

Exam. HARRISON. Why not wait until Mr. Christie gets back on the stand, Mr. Clardy, and then examine him about the schedule? He is the man who made it up, and I take it he can explain it to you.

Mr. CLARDY. Well, if you will just bear with me a moment or two further, your Honor—this witness has been asked to make a broad statement or two here, and I just want to find out the foundation for them, if I may. I am pretty nearly done with this particular angle. I have taken Cleveland as an example, but I want now, if I may, to see if that applies to all of the other points as well.

Mr. BARKELL. All right.

By Mr. CLARDY:

373 Q. In connection with movements from—I will take one more example, the easternmost point, I think that you mentioned—Bridgeport, Connecticut.

A. Yes.



Q. You do not have any more knowledge about how they would go, or how they would compare with the Cleveland movements in the present operation, do you?

A. No.

Q. Do you know how many railroads such a movement—or such a shipment would be switched between, before it gets into your town?

A. Well——

Mr. HARRY YOCKEY. I want to object——

A. I would say——

Mr. HARRY YOCKEY. Just a moment, please, Mr. Button.

The WITNESS. Pardon me.

Mr. HARRY YOCKEY. I submit, now, if the Board please, that counsel is going very far afield here.

Mr. CLARDY. Oh, no.

Mr. HARRY YOCKEY. That is not involved here.

Mr. BARKELL. Let me ask you, Mr. Clardy, what are you attempting to show by this line of cross-examination?

Mr. CLARDY. I am not trying to show anything, your Honor. I am merely trying to demonstrate the contention that shipments from Bridgeport and these other points will not be expedited, and I want to find out if this witness knows anything about it.

Mr. HARRY YOCKEY. We are not attempting to expedite  
374 anything on other railroads, beyond Fort Wayne.

Mr. BARKELL. This witness has testified, as I understand it, that all he knows is what the representative of the railroad company has indicated to him.

Mr. HARRY YOCKEY. Yes.

Mr. BARKELL. And of his own personal knowledge, he does not know whether or not the service is going to be any better.

Mr. CLARDY. Your Honors, I have tried many cases, and in a great many of them it appeared to me that the facts were so plainly evident to the Joint Board and the Examiner, that further examination would serve no purpose, because it was not necessary, only to discover later that perhaps one single statement by a single witness, had been used by the division or the Commission itself, as a basis upon which to reverse the finding. Now, merely out of an excess of caution on the basis of a considerable amount of experience, I want to get very clearly into this record a few facts with respect to what this witness knows about how the service is presently being rendered, in order to be able to convince even the Commission itself that the saving that is claimed is not there. Applying that directly to this question, here is what I have in mind—and if he had not asked about it, I would not be cross examining upon it—he has asked if the witness got ship-

ments from Bridgeport, Connecticut, and a number of other points, and then he has coupled that up with the statement, or with  
375 the question to the witness, "Now, if you got a 24-hour saving in time on movements to or from those points, would that not be a fine thing for your company?" And over our objection, the witness has been permitted to answer that it would be. Now, I want to find out, your Honors, if this witness, with respect to each of these towns, has any definite knowledge as to how the shipments are handled to his point, because I want to show, especially with regard to Bridgeport, that a number of carriers will be involved in the present operation, and I am sure that this witness knows it, even if he does not inspect the freight bills to discover the identity of the carriers.

Mr. BARKELL. All right.

Mr. CLARDY. In order to show that there will be no possibility of any such saving of time.

Mr. HARRY YOCKEY. If the Board please, may I have just a moment further to say something in answer to that?

Mr. BARKELL. Very well.

Mr. HARRY YOCKEY. I submit that this is not proper cross-examination, in the first place, because we did not attempt to go into that matter on direct examination. My entire questioning was predicated upon the hypothetical situation that, if his service could be expedited 24 hours, as explained by the representative of the railroad company, would that serve the convenience and necessity of his business, and if he would continue to use the service. Now, then, that is not predicated upon  
376 any knowledge on his part. He has no knowledge of it, upon the very face of it. Now, then, I submit that to permit counsel to go into that matter further is just simply a waste of time, and beyond the issues here, and particularly beyond the scope of proper cross-examination.

Mr. CLARDY. May I say—

Mr. HARRY YOCKEY. Just a moment. This witness does not know how they transport this freight; the matter is not involved here; and I did not go into that with him on direct examination.

Mr. CLARDY. If we may have it understood, your Honors, that they are not making any claim that by this witness they are making any showing that there will be any saving of time from any of the points that they have named, then I am content not to ask the witness any further questions along this line. Otherwise, unless I am permitted to cross-examine on it, I am being unfairly cut off. Now, I say, if they are still claiming that there is going to be any saving of time there, I should be permitted to go ahead.

Mr. HARRY YOCKEY. Let me say this—

Exam. HARRISON. Just a moment.

Mr. HARRY YOCKEY. I think we can save some time here, your Honor.

Exam HARRISON. All right. Go ahead.

Mr. HARRY YOCKEY. I think it follows, as a legal consequence, from the questions that I have asked, that this witness 377 is only testifying, and all of our other shipper witnesses here are only testifying in the abstract, unless, with a particular witness, we go beyond that—and we have not in this case; the testimony of this witness is simply based on the representations that have been made to him with respect to speeding up his service 24 hours. Now, if we do not prove that by other witnesses, that we are as a matter of fact going to make that saving of 24 hours to his town, why, then, it is just naturally axiomatic that the testimony will amount to nothing.

Mr. MOBERLY. I believe, if the Board please, in support of the position of Mr. Clardy, that we should have that statement from counsel for the applicant, that they are not attempting such proof by their shipper witnesses—

Mr. HARRY YOCKEY. I have just made the statement on the record.

Mr. MOBERLY. Or else that we should be permitted to go into the matter and develop on the record that the shipper witnesses know nothing about the situation.

Mr. BARKELL. I quite agree with you there. But have you not just stated for the record, Mr. Yockey, that you are not attempting to show by this witness, and your other shipper witnesses, that as a matter of fact there is that saving?

Mr. HARRY YOCKEY. Yes, your Honor. That is, in other words, we are not attempting with these witnesses to go into the operation of the railroad at all of these points, because 378 these men know nothing about the operation of the railroad, or practically nothing. Of course, if I go into that question with any of them, why, then, of course, they will have the right to cross-examine; but I have only asked this witness if, as represented, there will be an expedition in the service of 24 hours, that will serve the convenience and necessity of his company; and if we do not prove by our own witnesses, I mean by our own company witnesses, as to what that expedition is, why, then, of course, it follows that the testimony of this man, and other similar testimony, will amount to nothing.

Mr. CLARDY. Well, now—

Mr. HARRY YOCKEY. I do not know how much plainer that can possibly be made.

Mr. CLARBY. It is not plain enough to me yet, your Honors. I just do not understand what counsel means. If he is saying that by the testimony of this shipper witness, and any other similar shipper witnesses who may be put on the stand, he is not attempting to prove that there will be any saving of time from any of the points named in the testimony, in serving this particular shipper or his town, or other shippers and their towns, then I am content to ask no further questions along that particular line of cross-examination. But if counsel is going to claim that through the mouth of this witness, he has established that there will be a saving in time to this shipper, this shipper's company, or  
379 his town, then I insist that I must be allowed the right to go ahead. I think you understand, as I do, that he is agreeing with me, but I just want to be very sure that the record is clear on the matter.

Mr. BARKELL. Well, Mr. Yockey has already made the statement, Mr. Clardy, that he is not going to claim that the testimony of this particular shipper witness, or the testimony of similar shipper witnesses, proves that there is any saving of time, as far as this shipper witness, or other similar shipper witnesses are concerned.

Mr. HARRY YOCKEY. Yes.

Mr. CLARDY. Does the Joint Board understand that?

Mr. BARKELL. I understand that to be the statement of Mr. Yockey; yes.

Mr. HARRY YOCKEY. Of course, there may be some few exceptions, but the witness now on the stand is of the type of most of them; so unless they develop it—of course, if they develop it, why, of course, that is something else again. But as far as the testimony of this witness is concerned, and the testimony of other similar witnesses, based upon representations, it is not any proof of the fact. As far as my questions are concerned, they ought to speak for themselves, and I should not have to be making this explanation. When I ask questions of that sort, they ought to speak for themselves. If I ask any witness a question that is based upon representations which have been made to him, that is no proof of the fact.

380 Mr. CLARDY. If your Honors please, if the Joint Board and the Examiner will inform me now that they understand that statement as I do, as I described my understanding a moment ago, then I am content. Otherwise, however, I am not.

Mr. HARRY YOCKEY. May I say for the record.—

Mr. BARKELL. Just a moment.

Mr. HARRY YOCKEY. If it will help to make my position as to that a little plainer—

Mr. BARKELL. Just a moment, Mr. Yockey.

Mr. HARRY YOCKEY. All right.

Mr. BARKELL. Off the record.

(Discussion outside the record.)

Mr. BARKELL. Now, back on the record, please, Mr. Reporter. We feel, Mr. Clardy, in view of the statement which has been made on the record by Mr. Yockey just now, that there is no need of your examining the witness further with respect to the question of saving of time.

Mr. CLARDY. Well, if you will pardon me for putting it bluntly this way, I do not want later to be confronted with the proposition that I stated the proposition one way, and Mr. Yockey stated it another, and the Joint Board understood it perhaps still another. Am I to understand your statement to indicate that you are in accord with me, in my understanding of Mr. Yockey's statement?

Mr. BARKELL. Well, I do not know, Mr. Clardy, whether we are in accord with you exactly or not, but we do feel that in view of the statement which has been made on the record by Mr. Yockey, with respect to what he is trying to prove by this witness, and other similar witnesses, it will not be necessary for you to proceed further with any more cross examination, as far as any alleged saving in time is concerned, which the witness has indicated he knows nothing about.

Mr. CLARDY. Well, of course, your Honor, may I call your attention to the fact that up to this point, in the statement made by Mr. Yockey, he has not given an unqualified "Yes", that I have understood his statement correctly; and I submit that until he does that, I must regard what he has said as containing a qualification of the thing, and therefore, I think I am entitled to continue with my cross examination of the witness along this line.

Mr. HARRY YOCKEY. Well, of course, if I have satisfied the Joint Board and the Examiner with the statement I have made—and apparently I have—I do not know just what else is necessary.

Mr. BARKELL. So that we will be very sure, Mr. Yockey, and so the record will be entirely clear, will you just restate your position again, very briefly and concisely, please.

Mr. HARRY YOCKEY. Yes, sir. In the case of this witness, the only question that I have asked him has been, and in the case of similar witnesses, the only question that I will ask of them will be as to whether or not representations have been made to them regarding certain service to their cities or towns, and specifically, if the representation has been made to them that there will be an expedition in the service to their cities or towns, over the Pennsylvania Railroad, of 72 hours or more; and further,



if there will be that expedition, if they want that service, and will use it; and that is the only question regarding that, that I have asked, or will ask the witnesses. Now, I have stated several times before that under those circumstances we are not trying to prove that that is the fact, as to what the service actually is, or will be.

Mr. EGGERS. Well, now, Mr. Clardy, I think that is perfectly clear, as far as I am concerned.

Mr. HARRY YOCKEY (continuing). Or as to what the actual expedition of the service is or will be. It is not our intention to go beyond that. That is as far as we care to go. It is not an attempt by this witness, or the other witnesses, to prove what the actual expedition is.

Mr. EGGERS. I think that is perfectly clear.

Mr. HARRY YOCKEY. As to any questions here that may go beyond that, why, then, of course, that will not apply.

Mr. CLARDY. All right.

Mr. HARRY YOCKEY. On the other hand, if they themselves develop something on cross-examination to help us, like they have in their cross-examination of some of the witnesses, why, 383 that, of course, will be their own lookout.

Mr. CLARDY. Well, now, your Honors, I think Mr. Yockey has stated a further thing in there now, which is not included in what I said; so there is another qualification.

Mr. EGGERS. That is not my understanding, Mr. Clardy. I think he said that the very first time.

Mr. CLARDY. Well, I do not agree with you, your Honor.

Mr. HARRY YOCKEY. I thought I did.

Mr. BARKELL. I think the record is clear.

Mr. CLARDY. He probably intended to, but did not.

Mr. BARKELL. Let us proceed.

Mr. CLARDY. Now, Witness, there is just one further question on the subject about which I was interrogating you.

By Mr. CLARDY:

Q. You do not have any knowledge, other than that which has been given to you by Mr. Christie, representing the railroad company, with regard to the service which is proposed, or as to what will happen if they get the authority asked for in this application, do you?

A. Well, Mr. Christie did not say that.

Q. Who did?

A. Mr. Payne.

Q. Well, then, what is your answer to my question?

A. No, sir, we have nothing additional, because, after all, we have to take the man's word for it, and if they can furnish it.

why, we would certainly like to have the service speeded  
384 up 24 or more—

Mr. BARKELL. It is not necessary to explain your answer,  
Mr. Witness.

The WITNESS. K.

Mr. BARKELL. It will save time and conserve the record if you  
will just answer the question directly, and then stop.

The WITNESS. All right, sir.

By Mr. CLARDY:

Q. Who is Mr. Payne?

A. Mr. Payne is the gentleman who is standing back over there  
right now. He is division supervisor, I believe, for The Penn-  
sylvania Railroad.

Mr. HARRY YOCKEY. Supervising agent for The Pennsylvania  
Railroad, out of Grand Rapids, on the Grand Rapids division.

The WITNESS. Yes.

By Mr. CLARDY:

Q. But no representative of the trucking company approached  
you with regard to this application, did he?

A. (Shaking head "No.")

Exam. HARRISON. Speak up, Mr. Witness.

Mr. BARKELL. Speak out, so that the Reporter can hear you.

A. No.

By Mr. CLARDY:

Q. Now, Witness, you said a little earlier in your testimony  
here that in the movement of shipments into Indiana and Ohio,  
you used truck service practically exclusively.

A. Yes.

Q. Did I correctly understand you?

385 A. Yes, sir.

Q. And I understood you further to say that that was  
because you found it to your advantage to do so; is that correct?

A. Yes.

Q. Is that because the service into those states by motor carrier  
is the most expeditious manner in which you can ship?

A. Yes, sir.

Q. And you have been doing that now for quite a period of  
time, have you?

A. Yes, sir; I will say we have. We have been doing it for  
probably around 20 years. Of course, I don't mean that I have,  
because I haven't always been with the company.

Q. But your company has.

A. Yes.

Q. And you do not propose to change that service, as I understand it, do you?

A. No, sir; we do not—that is, not unless we do not get the same service that we are getting now. However, as long as we get the same service that we are getting, it will not be changed.

Q. So long as the motor carriers continue to render you that efficient and satisfactory service which you are getting at the present time, you will continue to use it?

A. Yes, sir.

Q. In the case of a movement from Fort Wayne over to your town—or, first, do you have any such movements?

386 A. Very few.

Q. Do you have those handled by motor carrier?

A. No, sir; we do not. Those come in right straight Pennsylvania.

Q. Have you ever had any shipments to Fort Wayne?

A. Yes.

Q. From your town, that is?

A. Yes, sir.

Q. Are those also handled by the Pennsylvania?

A. Well, shipments that are going to the General Electric Company, and similar accounts there are, yes, sir; but we have one account that is handled by truck, through their own routing.

Q. At their own suggestion?

A. Yes, sir; their own routing.

Q. And that has been going on for some time, has it?

A. Yes, sir; that has been going on for quite a period of time; about the last eight years, I would say.

Q. What carrier is that, by the way?

A. Well, we send the shipments out of Plainwell by Associated Truck Lines, but just whom Associated turns them over to in Kalamazoo, or wherever they take them down to, I don't know. I imagine, however, that they take them to Goshen, Indiana, and then turn them over to somebody else at that point, because they would take the longest haul, of course.

387 Q. Have you finished?

A. Yes.

Q. Now, are those movements to and from Fort Wayne all less than truckload movements?

A. Yes.

Q. Has the rail service when you use it to and from Fort Wayne, been satisfactory to you?

A. Well, as far as we know it has, yes, sir; but, of course, I cannot speak for our customers. In other words, they might make complaint to the railroad company, and we would not know anything about it.

Q. I mean, so far as you are concerned.

A. Yes.

Q. I do not expect you to try to speak for anybody else.

A. Only so far as we are concerned, yes, sir—that is, outside of the fact that once in a while, if we get it on the off-day, when the freight happens to be going north, then it will be held up for 24 hours.

Q. But generally speaking, you are satisfied?

A. Generally speaking, I would say that we are satisfied with the service; yes, sir.

Q. Now, with regard to the motor carrier service, has the consignee who has specified motor carrier service at Fort Wayne, complained to you about the character of the service?

A. Why, no, sir. I don't imagine that he would complain, 388 either. Probably, if he didn't like the service, why, he would change over to the freight.

Q. Do you have any idea as to the time consumed in making delivery by train, and also by motor carrier?

A. Well, the train, I imagine, is probably about four hours—that is, if they make the run right straight through, it will be about four hours; probably three or four hours into Kalamazoo, and then the following morning, on the local, if we happen to hit it that way; otherwise, probably two days will cover it, from Fort Wayne. By truck, it is according to what truck line handles it. We have Associated Truck Lines pick the shipment up in Plainwell, if we are going to Fort Wayne, if it is to be shipped by truck, and Associated will take it by its longest haul, of course, but they turn it over to another truck line; so that there is a transfer at Kalamazoo, and there is also a transfer down at the end of the haul, because, even considering it most favorably, there will be three or four hours involved in the transfer anyway, because, naturally, the truck lines do not all make the same place at the same time. That is, they do not all maintain the same schedules; so it would probably take three to four days to get it down there.

Q. Do you know that?

A. No, sir; I don't.

Q. You are just speculating, then, as to that?

A. I am just speculating, you might say, yes, sir; but 389 based on past experience, knowing pretty well what they do.

Q. Well, have you ever had occasion, Witness, to investigate into the matter, and see definitely how much time was used by either the railroad or the truck companies in making deliveries to Fort Wayne?

A. No, I have not.

Q. All right.

A. Life is too short.

Q. Now, I do not believe that you mentioned Chicago—or rather, I do not recall hearing you mention it—as one of these points.

A. Yes, I think so.

Q. Do you ship to and from Chicago?

A. Yes.

Q. Do you use the Pennsylvania Railroad in that movement, or do you use truck service?

A. Truck.

Q. That is because movements to and from that point would involve too long and roundabout a route by way of the rail; is that correct?

A. Yes, sir; that is correct. We can get an overnight service to and from there by truck.

Q. How?

A. I say, we can get an overnight service, as far as Chicago is concerned, by truck.

Q. By truck.

390 A. Yes.

Q. And so you use the truck service.

A. Yes.

Q. Are you satisfied with it?

A. (Nodding head "Yes.")

Mr. EGGERS. Speak out, Mr. Witness.

Mr. YOCKEY. So the Reporter can get it.

A. Yes.

By Mr. CLARDY:

Q. Now, Witness, are there any points on the routes which are set forth in applicant's exhibit No. 2 here, if you have that exhibit in mind—

A. Yes: I have it right here.

Q. Other than Fort Wayne, to or from which you have occasion to ship anything?

A. Are there any points on these same routes?

Q. In the state of Indiana.

A. Intrastate?

Q. No. I should have said interstate.

A. Oh.

Q. Are there any points other than Fort Wayne, to which you ship there, in interstate commerce?

A. That is, on this route?

Q. Yes.

A. Oh, once in a while we go to Kendallville.

Q. Where?



391 A Kendallville, but very seldom.

Q. And is that always by rail?

A. Yes.

Q. No representations have been made to you, have there, with respect to whether or not there would be any saving in time in connection with the movement of shipments to Kendallville?

A. No.

Q. All right.

A. That is, outside of the fact that they said that they would speed up our shipments leaving Plainwell by 24 hours, and that is all we are asking for.

Q. That did not apply, though, to any particular town, did it?

A. No, sir; that didn't apply to any particular place, in my opinion, or as I understand it—just the fact that they were going to move our freight 24 hours quicker.

Q. I believe your original statement was, they told you that they hoped to. Is that correct?

A. Yes, sir; that they hoped to.

Q. Sure.

A. They couldn't make a positive statement.

Mr. CLARDY. I believe that is all—oh, pardon me. There is just one further question.

By Mr. CLARDY:

Q. What is the name of the Chicago carrier?

A. Well, Associated Truck Lines take it out, but I believe that they take it to—

392 EXAM. HARRISON. You do not need to go any further than that, Mr. Witness.

The WITNESS. All right.

EXAM. HARRISON. Mr. Clardy asked you what the name of the carrier was, and you have answered the question.

The WITNESS. O. K.

Mr. BARKELL. Just answer the question and stop there.

By EXAM. HARRISON:

Q. You do not know what carrier takes the shipment into Chicago, do you?

A. Well, no, sir; I don't know that. All I know is that Associated leaves Plainwell with it.

By Mr. CLARDY:

Q. And it gets there the next morning, does it?

A. Why, pretty generally it does, I would say, yes, sir; unless they blow a tire, or something such as that.

Mr. CLARDY. That is all.

Mr. BARKELL. Have you any further questions of the witness, Mr. Yockey?

Mr. HARRY YOCKEY. That is all.

Mr. BARKELL. You are excused.

(Witness excused.)

Mr. BARKELL. We will take a short recess before you call your next witness.

(A short recess was taken.)

Mr. BARKELL. Come to order, please, gentlemen. You may call your next witness, please, Mr. Yockey.

Mr. HARRY YOCKEY. Mr. Dinkel.

Mr. BARKELL. Have you been sworn?

Mr. DINKEL. Yes, sir.

EDWARD F. DINKEL was sworn and testified as follows:

Direct examination by Mr. HARRY YOCKEY:

Q. You may state your full name.

A. Edward F. Dinkel.

Q. Where do you reside?

A. Conklin, Michigan.

By Mr. ANDERSON:

Q. Conklin?

A. Yes, sir.

By Mr. HARRY YOCKEY:

Q. What is your business?

A. Farm equipment and hardware.

Q. What is the name of your company?

A. The same as I stated.

Q. Dinkel?

A. E. F. Dinkel.

Q. That is your own individual business?

A. Yes.

Q. State the nature of the business again.

A. Farm equipment mostly, and some hardware.

Q. Do you use the Pennsylvania Railroad, in the movement of your in-bound or out-bound shipments?

394 A. Yes.

Q. Do you have any out-bound shipments—and I should say that all of the questions that I ask you here will have to do with interstate shipments.

A. I understand.

Q. Do you have any out-bound shipments?

A. Some, yes.

Q. And you have in-bound shipments, do you?

A. Yes.

Q. Now, then, on your out-bound shipments—or rather, let us take first the in-bound shipments. What do they consist of?

A. Oh, farm equipment out of Moline, Illinois. That is one of our major movements—or items.

Q. All right. What other points?

A. Milwaukee, Wisconsin.

Q. What comes from there?

A. Hardware.

Q. What else?

A. Waterloo.

Q. Waterloo, Iowa?

A. Yes, sir.

Q. What commodity?

A. Tractors, tractor equipment and parts.

Q. What other point?

A. Kendallville.

395 By Mr. CEARDY:

Q. That last again?

A. Kendallville.

By Mr. HARRY YOCKEY:

Q. Kendallville, Indiana?

A. Yes, sir.

Q. What commodity or commodities do you receive out of Kendallville?

A. Pipe, pumps, tanks, and so forth.

Q. Do you get anything out of Indianapolis?

A. No.

Q. How?

A. What was that question again?

Q. Do you get anything in-bound out of Indianapolis?

A. Yes, some.

Q. What do you get out of there?

A. Agricultural machinery.

Q. Now, are all of those that I have asked you about, or that you have answered about, in-bound shipments?

A. Yes.

Q. Now, then, let us take Milwaukee, Wisconsin. How frequently do you receive shipments from that point?

A. About twice a month.

Q. What is the average weight of those shipments?

A. I would say, from 300 to 500 pounds.

Q. All right. Now, with respect to your shipments from Moline, Illinois; how frequently do you receive those shipments?

396. A. Well, during the rush season, possibly twice a week.

Q. What do you mean by "the rush season"?

A. That is during the summer months.

Q. Now, then, what will be—or what is the average weight of those shipments?

A. Oh, those particular shipments will run from 500 pounds up to around 2,000 pounds, I would say.

Q. Do you have occasion to receive shipments from Moline, other than during the rush season?

A. Yes.

Q. How frequently will that be?

A. I would say, once a month.

Q. All right. Now, take next your shipments from Waterloo, Iowa. How frequent are those received?

A. Well, they are not so frequent, either. We would have repairs possibly once a month.

Q. What is the average weight of those shipments?

A. From 300 to 500 pounds.

Q. Now, taking your shipments from Indianapolis, Indiana; how frequently do you receive those shipments?

A. I would say once a month.

Q. And the average weight?

A. They would run from 100 pounds to 300 pounds.

Q. Now, you named one other point, I believe, from which you receive shipments in-bound. What was that?

397. Mr. BARKELL. Kendallville.

By Mr. HARRY YOCKEY:

Q. Kendallville, Indiana.

A. Yes.

Q. Is that right?

A. Yes, sir.

Q. What is the weight of those shipments?

A. Oh, they will run from 300 to 500 pounds.

Q. And how frequently do you receive them?

A. Once a month.

Q. Now, then, on your out-bound shipments, will you name first the city where they go, and then name the commodity that goes to each city.

A. Moline—

Q. Illinois?

A. Illinois.

Q. Yes.

A. Replacement parts which go back to the factory.

Q. Return goods?

A. Yes.

Q. Continue.

A. Waterloo would be the same.

Q. Waterloo, Iowa.

A. Yes.

Q. The same.

A. Yes.

398 Q. The same commodity?

A. Yes, sir.

Q. Do you have shipments moving out-bound to any other point beside those two?

A. Nothing to speak of.

Q. Well, now then, as to Moline, Illinois; how frequently do you have out-bound shipments to that point?

A. Well, shipments to Moline would run, I would say—oh, possibly once every two months.

Q. And the average weight of those shipments?

A. Well, that would run, on an average, from about 500 to 800 pounds, I should say.

Q. All right. To Waterloo, Iowa, how frequently do you have out-bound shipments?

A. Well—

Q. About once a month?

A. Yes, sir.

Q. And those are—

A. The weight?

Q. Yes.

A. Those are not quite so heavy. They will run, I would say, from about 300 pounds to 500 pounds.

By Mr. DES RÔCHES:

Q. 300 to 500 pounds?

A. Yes, sir.

By Mr. HARRY YOCKEY:

399 Q. Now, all of these shipments that you have described, are moving over the Pennsylvania Railroad at the present time, are they?

A. Yes, sir.

Q. How long have you been using the Pennsylvania Railroad?

A. We have been using that rail service for about 15 years. I would say, or since we have been in business.

Q. Have you had explained to you, have you had somebody explain to you about what the—well, strike that out, and let me ask another question. Your city of Conklin, Michigan, is located on the Pennsylvania Railroad between Grand Rapids and Muskegon, Michigan, is it not?

A. Yes.



Q. And that line is one of the lines that branch off the main line of the Pennsylvania Railroad.

A. Yes.

Q. Now, then, has it been explained to you that the railroad proposes through this Willett Company service, by putting a truck on between Grand Rapids and Muskegon, that it will expedite the movement of your in-bound and your out-bound shipments, by at least 24 hours?

A. Yes.

Q. Now, then, if that service is instituted; that is, the rail-truck service, and if it does expedite the movement of your shipments 24 hours, will that serve the convenience and necessity of your particular business.

400 A. Yes.

Q. Would you like to have that service instituted for your business?

A. I would.

Mr. HARRY YOCKEY. That is all.

Mr. BARKELL. Cross examine.

Cross-examination by Mr. ANDERSON:

Q. Mr. Dinkel—is that the name?

A. Yes, sir.

Q. Did I correctly understand you to say that you are getting all your shipments at the present time over the Pennsylvania Railroad?

A. Yes.

Q. All of your in-bound shipments?

A. Those mentioned; yes.

Q. You say, those mentioned?

A. Yes.

Q. Do you get any by motor vehicle?

A. Yes.

Q. What, for instance?

A. Well—

Q. And from where?

A. Laings.

Q. What truck line?

A. Well, we get—

401 Examiner HARRISON. That is intrastate.

Mr. BARKELL. Yes.

Mr. ANDERSON. That is right.

By Mr. ANDERSON:

Q. Well, Mr. Witness, do you get any shipments from any of these points at all by motor vehicle?

A. We have.

Q. What, for instance?

A. What point?

Q. Yes.

A. Milwaukee.

Q. Milwaukee.

A. Yes.

Q. What truck line?

A. Well, now, I wouldn't be able to tell you as to that. We get it delivered by Bishop, though, out of Grand Rapids.

Q. Bishop?

A. Yes.

Q. Has that service been satisfactory?

A. No.

Q. What about your Waterloo, Iowa, movement, which would come through the Chicago gateway?

A. How do you mean?

Q. Is there no truck line serving Conklin, Michigan, direct from Chicago?

A. Do we get that direct from Chicago?

402

Q. Yes.

A. No, sir. We just have a branch.

Q. A branch of what?

A. It is called Bishop.

Q. Bishop?

A. Bishop Truck Lines.

Q. Do you know where they operate from?

A. Grand Rapids.

Q. From Grand Rapids?

A. Yes.

Q. So that it would come to you, then, from Chicago—anything from Waterloo, Iowa, that is, that was consigned to you, if it came by truck, out of Chicago, at least—it would come from Chicago by what truck line?

A. I couldn't say.

Q. But you say, as far as the delivery is concerned, that it comes to you by Bishop?

A. Yes.

Q. From Muskegon?

A. Grand Rapids.

Q. From Grand Rapids?

A. Yes.

Q. How large is your town?

A. About 400.

Q. About 400 people?

403

A. Approximately.

Q. You do not receive very many shipments from Indianapolis here, I believe you said.

A. Right.

Q. Not so much.

A. No.

Mr. ANDERSON. I believe that is all.

Mr. MOBERLY. No questions.

By Mr. DES ROCHES:

Q. Are you getting store delivery at the present time?

A. Store delivery?

Q. Yes.

A. Yes.

Q. Who makes that delivery?

A. We have a pick-up truck there.

Q. What is the name of the pick-up company?

A. For the pick-up and delivery in town there?

Q. Yes.

A. I operate that truck myself.

Q. Oh, you do that yourself.

A. Yes.

Q. You are working for The Pennsylvania Railroad Company at the present time, are you?

A. No, sir; I am not—well, I operate the truck, or my men do; I hold the contract, and my men do the pick-up and 404 delivery work.

Q. Well, then, you are making pick-ups and deliveries for The Pennsylvania Railroad Company at the present time, are you not?

A. Yes.

Q. Are you also making pick-ups and deliveries for other railroads in Conklin?

A. No.

Q. Is there any other railroad running into Conklin, or through Conklin?

A. Why, yes, sir; the Grand Trunk runs through there, but they do not have any local trains that stop there.

Q. Have they promised you anything, or are you going to continue to take care of these deliveries if the proposed service has been put through?

A. There has been nothing said about it.

Q. No representations have been made to you whatsoever—

A. No.

Q. On that score?

A. Nothing about any change.

Q. How is that?

A. I say, nothing about any change in it; no, sir. That has been going on now for several years, that we have been doing it.

Q. How many pieces of equipment are you using at the present time in connection with that pick-up and delivery service?

405 A. One.

Q. Just one?

A. That is all.

Q. Who asked you to appear here today?

A. A representative of The Pennsylvania Railroad.

Mr. DES ROCHEs. That is all.

By Mr. CLARDY:

Q. Who was that representative?

A. Mr. Payne.

Q. Is the present service that you are receiving from the cities which you named, by railroad, satisfactory to you?

A. It is not.

Q. You do not like it?

A. That is, in one particular case it is not; no, sir.

Q. Which one is that?

A. From Milwaukee.

Q. Is it too slow?

A. Yes, sir.

Q. But the other service which you are receiving from the other cities is satisfactory, is it?

A. Well, I have no particular fault to find with the other service, I would say.

Q. Is the Bishop Truck Line the only truck line which operates through your town?

A. Yes.

406 Q. On what highway, or on what highways, is the town of Conklin located?

A. It isn't on any state highway.

Q. How is that?

A. It is off the state highway.

Q. Off what state highway?

A. Off 16.

Q. In what direction?

A. North.

Q. How far?

A. About seven miles.

Q. What is the closest town?

A. Coopersville.

Q. Within how many miles of Coopersville are you?

A. About six or seven miles.

Q. What would be the town—or rather, which way are you located from Coopersville; east?

A. No; northwest.

Q. Northwest?

A. Or rather, northeast.

Q. Northeast of Coopersville?

A. Yes, sir.

Q. The Bishop Truck Lines has been serving that town for quite a while, has it not?

A. Well, as far as the truck line itself is concerned, it has been changing names. It is Bishop at the present time, as far  
407 as I know.

Q. You have been working for the railroad for about how long?

A. For about four years.

Q. And you do not anticipate any change in that relationship if this application is granted, do you?

A. Well, as I stated before, there has been nothing mentioned to that effect; no, sir.

Q. Do you have any knowledge at all about the manner in which the operations will be conducted if this application is granted, other than that given to you by the representative of The Pennsylvania Railroad Company?

A. No.

Mr. HARRY YOCKEY. Now, just a moment. I want to object to going into that question.

Mr. BARKELL. Mr. Clardy is merely asking if he has any knowledge other than that. I see no objection to asking that question.

Exam. HARRISON. He has answered the question, anyway.

Mr. HARRY YOCKEY. If he wants to go into that on his own account, all right, but it certainly is not proper cross-examination.

Mr. BARKELL. Oh, the witness may answer the question, if he has any other knowledge of it.

Mr. HARRY YOCKEY. If he wants to go into it, he will have to be bound by it.

408 The WITNESS. Let me see if I understand the question, now. Will you repeat it, please?

Mr. CLARDY. Read it.

(Question read.)

A. I have none.

By Mr. CLARDY:

Q. Is your information, then, Witness, no more extensive than the mere statement that they expect, or hope, to shorten the time?



A. That is right.

Q. But beyond that hope, as they expressed it to you, you have no knowledge; is that right?

A. That is right.

Mr. CLARDY. That is all.

Mr. BARKELL. Is there any further cross-examination of this witness?

Mr. KING. Just one question.

By Mr. KING:

Q. What is the distance, Mr. Witness, from Conklin to Muskegon, Michigan?

A. Conklin to Muskegon?

Q. Yes.

A. Oh, about 20 miles.

Q. There is water-carrier service available from Milwaukee, Wisconsin, to Muskegon, Michigan; is there not?

A. Yes, sir.

Q. Does Bishop operate to Muskegon?

409 A. Between Muskegon and Grand Rapids.

Mr. KING. That is all.

Mr. ANDERSON. I would like to ask one further question if the Board please, on the present state of the record.

By Mr. ANDERSON:

Q. Mr. Witness, you did not fully state your business to this Joint Board and the Commission when you testified that you are in the farm equipment and hardware business, did you?

A. I believe I did.

Q. Well, did you not subsequently testify that you are in the local cartage business, performing pick-up and delivery service for the Pennsylvania Railroad?

Mr. HARRY YOCKEY. Oh, now, I want to object to that. That is mere quibbling by counsel.

Mr. ANDERSON. No; it is not.

Mr. CLARDY. Oh, no.

Mr. HARRY YOCKEY. I think the witness has testified fairly and frankly. Counsel is just merely arguing with the witness, now.

Mr. ANDERSON. The witness testified here, your Honors, that he is in the farm equipment and hardware business, and now it has been developed on the record here that he is in another business as well.

Mr. HARRY YOCKEY. He has told you that he is in two businesses.

410 Mr. BARKELL. Is it your purpose, now, Mr. Anderson, to test the credibility of the witness?

Mr. ANDERSON. Yes.

Mr. BARKELL. Oh, I do not think that is necessary. I think the record is clear.

By Mr. ANDERSON:

Q. Well, Mr. Witness, you are now engaged in performing pick-up and delivery service for the Pennsylvania Railroad; are you not?

A. Well—

Mr. HARRY YOCKEY. Now, I want to object to that. The witness has already stated that.

Mr. ANDERSON. All right.

Mr. BARKELL. The record shows that.

By Mr. ANDERSON:

Q. Do you still have any other business in which you are engaged, besides the two which you have mentioned?

A. I have a farm.

Q. A farm?

A. Yes, sir.

Q. So that, as a matter of fact, then, Mr. Witness, you are in three businesses; are you not?

A. Why, you might say so.

Q. Which is the biggest of the three?

Mr. HARRY YOCKEY. Oh, now, if the Board please, I object to that as wholly immaterial, and just simply unnecessarily wasting time here.

411 Mr. BARKELL. Sustained.

Mr. ANDERSON. That is all.

Mr. BARKELL. Are there any further questions of the witness?

Mr. HARRY YOCKEY. That is all.

Mr. CLARDY. You have ruled, your Honor, but there is another question in this connection that I think should be asked, and I would like to ask it, and that is, does he get a substantial return from the railroad company for performing this service, and also, does that represent a substantial part of his total gross income.

Mr. HARRY YOCKEY. Well, now, just a moment. I want to object to that as not being—well—

Mr. CLARDY. As showing bias.

Mr. HARRY YOCKEY. Well, there is no question—

Mr. CLARDY. I was addressing the Board.

Mr. HARRY YOCKEY. All right.

Mr. CLARDY. The Board has ruled, and I have asked permission to ask another question; and I am merely suggesting what the question should be.

Mr. ANDERSON. Well, since I had the witness last, I will ask him a further question, that I think is strictly proper.

By Mr. ANDERSON:

Q. Mr. Witness, if this application here should be granted,  
412 and The Willett Company should be authorized to serve  
Conklin, in view of the fact that you are engaged in performing pick-up and delivery service there for the Pennsylvania Railroad Company, you will expect to get the pick-up and delivery business of the railroad company; will you not?

A. I would gladly turn it over to somebody else.

Q. Well, answer my question, please. You would expect to have that business offered to you; would you not?

A. Oh, I would expect to have it offered me, yes, sir; having been there, and been doing their pick-up and delivery work for four years.

Mr. ANDERSON: Yes. That is all.

Mr. BARKELL: Is that all, Mr. Yockey?

Mr. HARRY YOCKEY: I have nothing further.

Mr. BARKELL: If there are no further questions, the witness is excused.

(Witness excused.)

Mr. BARKELL: Call your next.

Mr. HARRY YOCKEY: Mr. McDowell.

Mr. EGGERS: Have you been sworn?

Mr. McDOWELL: No.

GEORGE M. McDOWELL was sworn and testified as follows:

Direct examination by Mr. HARRY YOCKEY:

Q. You may state your full name, please.

A. George M. McDowell.

413 Q. Where do you live?

A. Reed City.

Q. Reed City, Michigan?

A. Yes, sir.

By Mr. BARKELL:

Q. What point?

A. Reed City.

By Mr. HARRY YOCKEY:

Q. In what business are you engaged, Mr. McDowell?

A. Furniture and funeral directing.

Q. Whose business is that?

A. My own, and my son's.

Q. Is your business located in Reed City?

A. Yes, sir.

By Mr. EGGERS:

Q. Furniture and what, again, please?

A. Funeral directing.

By Mr. HARRY YOCKEY:

Q. How long have you been engaged in that business there?

A. 31 years.

Q. And during that time, how long have you used the Pennsylvania Railroad?

A. About 30 years.

Q. You understand, I take it, do you, Mr. McDowell, that the shipments that I will ask you about here, will be interstate shipments?

A. Yes, sir.

414 Q. Over the Pennsylvania Railroad?

A. Yes, sir.

Q. Now, then, do you have in-bound shipments?

A. Yes.

Q. And out-bound shipments also?

A. Very little out-bound.

Q. All right. Now, then, I will question you first with respect to your in-bound shipments. What are the points, and as you name the points, will you name the commodities also, from which you have in-bound shipments over the Pennsylvania Railroad, of any less than carload freight?

A. Chicago.

Q. What commodity?

A. Caskets.

Q. Do you have anything else from there?

A. Furniture.

Q. Now, then, the next point.

A. (No answer.)

Q. Do you receive any shipments from Galion, Ohio?

A. Yes.

Q. What?

A. Vaults.

Q. Steel vaults?

A. Yes, sir.

Q. Any other point?

415 A. (No answer.)

Q. Do you have anything from Milwaukee?

A. Yes.

Q. What?

A. Springs and mattresses.

Q. How about Nappanee, Indiana?

A. Chairs.

Q. Yes?

A. Louisville, Kentucky.

Q. What commodity?

A. Breakfast room suites.

Q. Do you have anything from Huntington, Indiana?

A. Yes, sir, cedar chests and sewing cabinets.

Q. Now, then, your shipments from Chicago; how frequently do they come in?

A. Oh, about, I would say, 12 to 18 times per year.

Q. What is the average weight of those shipments?

A. The average weight of the shipments coming in from Chicago would be about 400 pounds.

Q. And of your shipments from Galion, Ohio—or rather, first, how frequently do they arrive?

A. About 12 times.

Q. About 12 times a year?

A. Yes, sir.

Q. That is about once a month.

416 A. Yes, sir.

Q. And what is the average weight of those shipments?

A. Oh, the average weight of the Galion shipments would be around 400 or 500 pounds.

Q. Now, as to your shipments from Milwaukee; how frequently do they come in?

A. Well, we get about two to three of those shipments per year.

Q. What is their average weight?

A. About 500 pounds per shipment.

Q. From Nappanee, Indiana?

A. About twice a year.

Q. And the weight?

A. About 150 pounds per shipments.

Q. From Huntington, Indiana?

A. Four to five times per year.

Q. And the average weight?

A. 125 to 250 pounds.

Q. Per shipment?

A. Yes, sir.

Q. Now, from Louisville, Kentucky?

A. (No answer.)

Q. Just to refresh your recollection, Mr. McDowell, would that be about four or five times a year?

A. Well, Louisville, Kentucky, is—pardon me. What was that question again, please?

417 Q. Would you say that your shipments come in to you from Louisville, Kentucky, about four or five times per year?

A. Yes, sir.

Q. And what is the average weight of those shipments?

A. From 125 to 250 pounds.



Q. Now, has it been explained to you by any representative of the railroad company that—or rather, strike that out, and let me ask you this question: your town, Reed City, is located on the Pennsylvania Railroad between Grand Rapids and Cadillac, Michigan, is it not?

A. Yes, sir.

Q. Has it been explained to you by a representative of The Pennsylvania Railroad, that it is proposed by this application to put in a truck line between Cadillac and Grand Rapids, Michigan, and that there will be one truck operating each way per day by The Willett Company, which will carry the less-than-carload freight that was formerly carried on that route by the Pennsylvania Railroad local freight train?

A. Yes.

Q. And has it also been explained to you that by the institution of this rail-truck service by The Pennsylvania Railroad, your shipments will be expedited at least 24 hours?

A. Yes.

Q. Well, now then, if that service is instituted, and if your shipments are expedited in the manner that I have indicated will that serve the convenience and necessity of your particular business?

A. Yes.

Q. Would you like to have such a service instituted?

A. Yes.

Q. And if the service is instituted, would you continue to use the service of the Pennsylvania Railroad?

A. Yes.

Mr. HARRY YOCKEY. That is all.

Mr. BARKELL. Cross-examine.

Cross-examination by Mr. ANDERSON:

Q. Mr. McDowell, did I correctly understand you to say that you have been in business there at Reed City for 31 years?

A. Yes.

Q. And your business is furniture and caskets?

A. Furniture and funeral directing, we call it.

Q. Furniture and funeral directing.

A. Yes, sir. Some might call it furniture and undertaking.

Q. I see.

A. But we choose the other term, we speak of it the other way, as furniture and funeral directing.

Q. Yes. Well, your business is satisfactorily served, so far as transportation is concerned, at the present time, is it not?

A. Yes, sir; generally speaking.

419 Q. The transportation facilities which you have available from the Pennsylvania Railroad and all of the dif-

ferent truck lines that serve you, are adequate to meet your needs, are they not?

A. Yes.

By Mr. HARRY YOCKEY:

Q. What was the answer?

A. Yes.

Mr. ANDERSON. He said "Yes."

Mr. BARKELL. Please speak a little louder, Mr. Witness.

The WITNESS. I will try.

By Mr. ANDERSON:

Q. In addition to the service of the Pennsylvania Railroad, going through Reed City, you have a number of truck lines, have you not?

A. Yes, sir.

Q. The service of which is likewise available to you.

A. Yes.

Q. Will you name some of them?

A. Associated; Interstate.

Q. Any others?

A. Dallas L. Darling.

By Exam. HARRISON:

Q. When you are naming those companies now, do they serve Reed City?

Mr. BARKELL. I was just going to ask the same question.

A. Well, some do and some do not.

Exam. HARRISON. Well, Mr. Anderson asked you if they passed through there.

420 The WITNESS. Oh, yes; they pass through there, but they don't all serve the town, if that is what you mean.

By Mr. ANDERSON:

Q. All right.

A. Not all of them.

Q. Will you just name for the records those that do serve Reed City to your knowledge.

A. Well, there is Dallas L. Darling, and Interstate Motor Freight, and—let me see, now. I don't think Doyle does. I don't think they serve Reed City, although possibly they do. I don't know for sure.

Q. You have service from Dallas L. Darling, and you have had for many years, have you not?

A. Yes.

Q. That service has always been satisfactory, has it not?

A. Yes.

Q. You have no complaint whatsoever, in connection with any shipments that Dallas L. Darling has ever handled for you, have you?

A. No.

Q. He gives you a prompt and efficient service on all of your shipments, does he not?

A. Yes.

Mr. ANDERSON. I believe that is all—or rather, pardon me. I forgot to ask you about Wolverine also.

By Mr. ANDERSON:

Q. You are served by Wolverine, are you not?

421 A. I don't know.

Q. You do not know about Wolverine?

A. No, sir.

Mr. ANDERSON. All right.

Mr. MOBERLY. No questions.

Mr. DES ROCHES. I have no questions.

By Mr. CLARDY:

Q. Witness, the only knowledge that you have about what may happen if this application is granted, is that which was imparted to you by some representative of the railroad company; is that correct?

A. Yes.

Q. Who was that representative?

A. I believe it was Mr. Payne.

Q. How long ago did he talk with you?

A. Probably two weeks.

Q. Would it make any difference to you as to the identity of the truck line that gives you the service that they discussed with you?

A. As to which line it would be?

Q. Yes.

A. No.

Q. It would not?

A. No, sir.

Q. You have been in Reed City for how many years?

A. 35.

422 Q. 35 years.

A. Yes.

Q. You do quite a lot of local intrastate business with the truck lines, do you not?

A. Yes.

Q. As a matter of fact, Witness, the large bulk of your business is intrastate business, is it not?

A. Yes.

Q. And the service which you have received thus far has amply taken care of your needs, has it not?

A. Not always.

Q. When was the last time that the Pennsylvania Railroad fell down in its service to you?

A. Never.

Q. It has never fallen down yet?

A. No.

Q. Then, the railroad has satisfactorily taken care of you at all times, has it?

A. Yes, sir.

Q. Was anything other than this proposed 24-hour saving in time, or whatever it was, discussed with you by the representative of the railroad company in asking you to come here and testify as a witness on behalf of the applicant?

A. No.

Q. Did the gentleman who talked to you go into any detail at all as to how they were going to accomplish that proposed saving?

A. Yes.

Q. How?

A. With their truck.

Q. Pardon me?

A. Running with their freight train.

Q. I still do not get that, Witness.

A. I say, with their truck operating through there in conjunction with their freight train.

Q. Is that as far as he went?

A. As far as I remember; yes.

Q. Did he tell you, or did any other representative of the railroad tell you that they were going to completely discontinue the local freight service?

A. No.

Q. You understand that that will continue also, do you?

A. Yes.

Q. The representatives of the railroad company did not present to you, or call to your attention, did they, the information set forth in applicant's exhibit No. 4 in this case, with regard to the exact scheduled time of operation?

A. No.

Q. So that you do not have any present knowledge as to when the service will be rendered?

424 A. No.

Q. If the application is granted.

A. No, sir.

Q. By the way, Witness, do you have a pickup and delivery service there at Reed City?

A. Yes.

Q. Who operates that?

A. A man by the name of Irvin.

Q. He serves the railroad exclusively, does he?

A. Well—

Q. Or is he a general local dray man?

A. He is our local dray man.

Q. Serving anybody?

A. Yes.

Q. Who wants help.

A. Anybody who requires his service; yes.

Q. If your pickup and delivery service should not be continued after the railroad gets this authority, if it does, would that be satisfactory to you?

Mr. HARRY YOCKEY. Well, now, just a moment. I want to object. There has been no intimation in this case from any witness, or anybody else at all, that this service will be discontinued. It is not an element that is involved in this case. What the relationship of The Pennsylvania Railroad may be with 425 some other truck line, with respect to pickup and delivery service, is not involved here.

Mr. BARKELL. Read the question, please, Mr. Reporter.

(Question read.)

Mr. BARKELL. The objection will be overruled. The witness may answer the question.

By Mr. CLARDY:

Q. Do you understand the question?

A. Yes. Objection overruled.

Mr. CLARDY. Well, now, Witness, I do not blame you for being a little bit confused.

The WITNESS. It is a tough job.

By Mr. CLARDY:

Q. Do you understand the question?

A. What is the question again?

Mr. BARKELL. Read it.

Mr. CLARDY. To save time, I will reframe it for you, Witness.

By Mr. CLARDY:

Q. My question was—and is—as to whether or not you would be satisfied with this proposed new service if they cut out the pickup and delivery service.

A. No.



Q. You would not be?

A. No, sir.

Mr. CLARDY. That is all.

Mr. BARKELL. Is there any further cross examination of the witness? [No response.] Is there any redirect, Mr. Yockey?

426 Mr. HARRY YOCKEY. No further questions.

Mr. BARKELL. If there are no further questions, the witness is excused.

(Witness excused.)

Mr. BARKELL. Call your next.

Mr. HARRY YOCKEY. If the Board please, may we be off the record for a moment?

Mr. BARKELL. Off the record.

(Discussion outside the record.)

427 Mr. BARKELL. Back on the record.

Mr. YOCKEY. If the Joint Board please, it is stipulated and agreed by and between the applicant and protestants herein, by their respective counsel, that there are present in the hearing room at this time, for the purpose of testifying on behalf of the applicant, certain witnesses, which witnesses have been duly sworn, and, if called to the witness stand, would testify substantially as hereinafter set forth in the written stipulations, copies of which are filed herein. It is hereby further stipulated and agreed that the written statements of proposed testimony of each of said applicant's witnesses for whom a written statement of testimony is submitted and made a part of the record herein, may be treated and considered as the testimony of each such witness, as though the same had been presented by formal testimony in question and answer form, and that the answers given on cross-examination by each such witness would generally and substantially be the same as the answers previously given by all of the applicant's shipper witnesses to questions propounded to them by protestants' attorneys this day. It is further stipulated and agreed that that portion of the testimony of the witness, Edward F. Dinkel, insofar as his testimony pertained to his service in performing pick-up and delivery service at Conklin, Michigan, for The Pennsylvania Railroad Company, shall not apply to the balance of the testimony of the applicant's shipper witnesses. Said written stipulations, pertaining to the witnesses hereinafter enumerated, are as follows:

428 H. L. Delp, Kendallville, Indiana.

Agreed and stipulated: That he is the traffic manager of McCray Refrigerator Company, a business which is engaged in the manufacturing of commercial refrigerators at Kendallville, Indiana.

That he is acquainted with the out-bound shipments which his company ships, consisting of refrigerators, cooling rooms, store display counters.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes described in the application, from Fort Wayne, Indiana, to Grand Rapids, Michigan, in interstate commerce.

That said out-bound shipments which his company ships over The Pennsylvania Railroad from Kendallville, Indiana, are as follows: 400 shipments per month of refrigerators, cooling rooms, and store display counters to various cities and towns all over the United States; the average weight of each of such shipments is 1,000 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by the Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck 429 service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If the service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

D. M. Campbell, Kendallville, Indiana.

Agreed and stipulated: That he is one of the partners of Campbell & Company, a business which is engaged in selling dry goods, shoes, and ladies' wearing apparel, at Kendallville, Indiana.

That he is acquainted with the in-bound shipments which his company receives, consisting of dry goods, shoes, notions, and ladies' wearing apparel, etc.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes described in the application, from Fort Wayne, Indiana, to Grand Rapids, Michigan, in interstate commerce.

That the said in-bound shipments which his business receives over the Pennsylvania Railroad at Kendallville, Indiana, are as follows:

From Chicago, Illinois: Two shipments a week consisting of dry goods, floor coverings, clothing, and shoes; the average 430 weight of each of such shipments is 200 to 500 pounds.

From New York City, New York: Two shipments a month consisting of dry goods and notions; the average weight of each of such shipments is 100 to 300 pounds.

From Baltimore, Maryland: One shipments a month consisting of seeds, the average weight of each of such shipments is 200 to 400 pounds.

From Cleveland, Ohio: One or two shipments a month consisting of dry goods and wearing apparel, the average weight of each of such shipments is 50 to 150 pounds.

From Detroit, Michigan: Four shipments a year consisting of hats and notions, the average weight of each of such shipments is 50 to 200 pounds.

From Boston, Massachusetts: One shipment a month consisting of shoes; the average weight of each of such shipments is 100 to 250 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use The Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

O. M. Warner, Howe, Indiana.

Agreed and stipulated: That he is one of the partners of O. M. Warner & Son, a business which is engaged in selling general hardware, stoves, etc., at Howe, Indiana.

That he is acquainted with the in-bound shipments which his company receives, consisting of general hardware, stoves, etc.

That he is acquainted with the out-bound shipments which his company ships, consisting of empty gas tubes.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes, described in the application, from Fort Wayne, Indiana, to Grand Rapids, Michigan, in interstate commerce.

That the said in-bound shipments which his business receives over The Pennsylvania Railroad at Howe, Indiana, are as follows:

From Cleveland, Ohio: Four shipments a month of general hardware items and stoves. The average weight of each of such shipments is from 200 to 400 pounds.

From Cincinnati, Ohio. Four shipments a year of stoves and stove pipes. The average weight of each of such shipments is from 500 to 1,000 pounds.

432 From Chicago, Illinois: Five shipments a month of paint and gas tubes. The average weight of each of such shipments is from 200 to 1,200 pounds.

From Pittsburgh, Pennsylvania: Four shipments a year of general hardware items. The average weight of each of such shipments is from 300 to 400 pounds.

From Erie, Pennsylvania: Ten shipments a year of pumps. The average weight of each of such shipments is from 200 to 400 pounds.

That the said out-bound shipments which his business ships over The Pennsylvania Railroad from Howe, Indiana, are as follows: From Chicago, Illinois—four shipments a month of empty gas tubes. The average weight of each of such shipments is 1,500 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, for the Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

433 C. F. McBride, Sturgis, Michigan.

Agreed and stipulated: That he is the owner and operator of Max's Furniture Store, a business which is engaged in selling house furnishings and appliances at Sturgis, Michigan.

That he is acquainted with the in-bound shipments which his company receives, consisting of furniture and household appliances.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes, described in the application, from Fort Wayne, Indiana, to Grand Rapids, Michigan, in interstate commerce.

That the said in-bound shipments which his business receives over The Pennsylvania Railroad at Sturgis, Michigan, are as follows:

From Martinsville, Virginia: One shipment a month of furniture. The average weight of each of such shipments is from 500 to 1,000 pounds.

From Bassett, Virginia: One shipment a month of furniture. The average weight of each of such shipments is 500 to 1,000 pounds.

From Nappanee, Indiana: One shipment a month of cabinets. The average weight of each of such shipments is 200 pounds.

From Muncie, Indiana: One shipment a month of card  
434 tables and novelties. The average weight of each of such shipments is 200 pounds.

From Galax, Virginia: One shipment a month of furniture. The average weight of each of such shipments is 500 to 1,000 pounds.

From Chicago, Illinois: One shipment a month of lamps. The average weight of each of such shipments is 400 pounds.

From Sebring, Ohio: Three shipments a year of dishes. The average weight of each of such shipments is 1,200 pounds.

The Witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

Fred W. Hubner, Sturgis, Michigan.

Agreed and stipulated: That he is engaged in the business of  
435 plumber and the selling of plumbing supplies and sheet metal at Sturgis, Michigan.

That he is acquainted with the in-bound shipments which he receives, consisting of plumbing and heating supplies, stoves, and general hardware items.

That he is acquainted with the out-bound shipments which he ships, consisting of empty gas cylinders.

That he does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes described in the application, from Fort Wayne, Indiana, to Grand Rapids, Michigan, in interstate commerce.

That the said in-bound shipments which he receives over The Pennsylvania Railroad at Sturgis, Michigan, are as follows:

From Fort Wayne, Indiana: Four to five shipments a month of plumbing and heating supplies; the average weight of each of such shipments is 200 to 400 pounds.



From Chicago, Illinois: Four shipments a month consisting of bottled gas and boilers; the average weight of each of such shipments is from 500 to 1,500 pounds.

From Louisville, Kentucky: Four to five shipments a year consisting of plumbing supplies; the average weight of each of such shipments is from 200 to 400 pounds.

From Rockford, Illinois: One shipment a month of stoves; the average weight of each of such shipments is 400 pounds.

From Cleveland, Ohio: One shipment a month consisting of plumbing supplies and general hardware items; the average  
436 weight of each of such shipments is 400 to 600 pounds.

That the said out-bound shipments which he ships over the Pennsylvania Railroad from Sturgis, Michigan, are as follows: Two shipments a month of empty gas cylinders to Chicago, Illinois; the average weight of each of such shipments is 1,200 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

C. A. Geble, Mendon, Michigan.

Agreed and stipulated: That he is the owner and operator of the Mendon Lumber and Coal Company, a business which is engaged in selling lumber, building supplies, and coal at Mendon, Michigan.

That he is acquainted with the in-bound shipments  
437 which his company receives, consisting of hardware, steel roofing, doors, and millwork.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes, described in the application, from Fort Wayne, Indiana, to Grand Rapids, Michigan, in interstate commerce.

That the said in-bound shipments which his business receives over the Pennsylvania Railroad at Mendon, Michigan, are as follows:

From Sterling, Illinois: Three shipments a month of hardware, and doors. The average weight of each of such shipments is from 300 to 500 pounds.

From Toledo, Ohio: Two shipments a month of hardware. The average weight of each of such shipments is 300 to 500 pounds.

From Cincinnati, Ohio: Four to five shipments a month of steel roofing. The average weight of each of such shipments is from 500 to 2,000 pounds.

From South Bend, Indiana: One two two shipments a month of millwork. The average weight of each of such shipments is from 150 to 500 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

438 He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

R. G. Chew, Vicksburg, Michigan.

Agreed and stipulated: That he is the traffic manager of Lee Paper Company, a corporation, a business which is engaged in the manufacturing of paper at Vicksburg, Michigan.

That he is acquainted with the in-bound shipments which his company receives, consisting of machine rolls, mill supplies, chemicals, paper, and rags.

That he is acquainted with the out-bound shipments which his company ships, consisting of printing paper, and machinery for repairs.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes, described in the application, from Fort Wayne, Indiana, to Grand Rapids, Michigan, in interstate commerce.

That the said in-bound shipments which his business receives over the Pennsylvania Railroad at Vicksburg, Michigan,

439 are as follows:

From various points throughout the New England States and points along the eastern seaboard of the United States: sixty to seventy-five shipments a month of machine rolls, mill supplies,

pulp, paper, and rags. The average weight of each of such shipments is from 400 to 500 pounds.

That said out-bound shipments which his business ships over the Pennsylvania Railroad from Vicksburg, Michigan, are as follows: thirty-five to forty shipments a month of printing paper and machinery for repairs to various points in the eastern, southern, and southwestern parts of the United States, and to a few points in the western part of the United States. The average weight of each of such shipments is from 400 to 600 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said company.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

Homer Brumbaugh, Vicksburg, Michigan.

Agreed and stipulated: That he is the owner and operator of Brumbaugh's 5 Cents to \$1.00 Store, a business which is engaged in selling retail merchandise at Vicksburg, Michigan.

That he is acquainted with the in-bound shipments which his company receives, consisting of miscellaneous merchandise, wall paper, candy, paint, galvanized ware, etc.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes, described in the application, from Fort Wayne, Indiana, to Grand Rapids, Michigan, in interstate commerce.

That the said in-bound shipments which his business receives over the Pennsylvania Railroad at Vicksburg, Michigan, are as follows:

From Toledo, Ohio: Two shipments a month of miscellaneous merchandise. The average weight of each of such shipments is 150 to 300 pounds.

From Joliet, Illinois: Three shipments a year of wall paper. The average weight of each of such shipments is 2,000 pounds.

From Chicago, Illinois: Four shipments a month of miscellaneous merchandise. The average weight of each of such shipments is 100 to 200 pounds.

From St. Louis, Missouri: One shipment a month of enamel ware, galvanized ware and paper ware. The average weight of  
441 each of such shipments is 200 to 300 pounds.

Also from various points in the eastern part of the United States: four shipments a month of miscellaneous merchandise and novelties. The average weight of each of such shipments is 200 to 300 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company, 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

Robert S. Marshall, Martin, Michigan.

Agreed and stipulated: That he is the owner and operator of a funeral home and undertaking establishment at Martin, Michigan.

That he is acquainted with the in-bound shipments which his company receives, consisting of caskets.

That his business does now and has for several years used  
442 the services of The Pennsylvania Railroad Company over one of the routes described in the application, from Fort Wayne, Indiana, to Grand Rapids, Michigan, in interstate commerce.

That the said in-bound shipments which his business receives over the Pennsylvania Railroad at Martin, Michigan, are as follows:

From Cambridge City, Indiana: One shipment a month of caskets. The average weight of each of such shipments is from 300 to 500 pounds.

From Milton, Indiana: One shipment a month of caskets, the average weight of which is from 300 to 500 pounds.

From Batesville, Indiana: One shipment a month of caskets, the average weight of which is from 300 to 500 pounds.

From Brookville, Indiana: One shipment a month of caskets, the average weight of which is from 300 to 500 pounds.

From Connersville, Indiana: One shipment a month of caskets, the average weight of which is from 300 to 500 pounds.

From Chicago, Illinois: One shipment a month of caskets, the average weight of which is from 300 to 500 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for the Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

Harry Elenbaas, Wayland, Michigan.

Agreed and stipulated:

That he is one of the partners of Elenbaas Bros., a business which is engaged in the operation of a flour mill and grain elevator at Wayland, Michigan.

That he is acquainted with the in-bound shipments which his company received, consisting of feed, seeds, poultry equipment, etc.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes described in the application, from Fort Wayne, Indiana, to Grand Rapids, Michigan, in interstate commerce.

That the said in-bound shipments which his business receives over the Pennsylvania Railroad at Wayland, Michigan, are as follows:

From Toledo, Ohio: One shipment a month consisting of feed; the average weight of each of such shipments is 4,000 pounds.

From South Whitley, Indiana: Two shipments a month of concentrate; the average weight of each of such shipments is 500 pounds.

From Port Wayne, Indiana: Two shipments a month during the months of April, May, and June, of seed; the average weight of each of such shipments is 500 pounds.

From Milwaukee, Wisconsin: Ten shipments a year of seed; the average weight of each of such shipments is from 500 to 2,000 pounds.

From Rockford, Illinois: Three shipments a year of poultry equipment; the average weight of each of such shipments is 100 to 200 pounds.

From Chicago, Illinois: Fifteen shipments a year consisting of seeds and feeds; the average weight of each of such shipments is 1,000 to 2,000 pounds.



From Grand Rapids, Iowa: Two shipments a year of mineral feed; the average weight of each of such shipments is 1,000 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

445 If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

John Haveman, Moline, Michigan.

Agreed and stipulated: That he is one of the partners of Haveman Bros., a business which is engaged in selling general merchandise at Moline, Michigan.

That he is acquainted with the in-bound shipments which his company receives, consisting of general merchandise including paint, hardware, and groceries.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes, described in the application, from Fort Wayne, Indiana, to Grand Rapids, Michigan, in interstate commerce.

That the said in-bound shipments which his business receives over the Pennsylvania Railroad at Moline, Michigan, are as follows:

From Chicago, Illinois: Three shipments a month of paint and groceries. The average weight of each of such shipments is from 200 to 300 pounds.

From Decatur, Illinois: Three shipments a year of general hardware. The average weight of each of such shipments is 200 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by the Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

446 He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business.

ness, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

Charles M. Turner, Rockford, Michigan.

Agreed and stipulated: That he is secretary and manager of Rockford Co-Operative Company, a business which is engaged as a farmers' co-operative association, at Rockford, Michigan.

That he is acquainted with the in-bound shipments which his company receives, consisting of farm machinery, fence material, barn equipment, etc.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes described in the application, from Grand Rapids, Michigan, to Cadillac, Michigan, in interstate commerce.

That the said in-bound shipments which his business receives over the Pennsylvania Railroad at Rockford, Michigan, are as follows:

447 From Harvard, Indiana: Three or four shipments a year consisting of barn equipment and stock tanks; the average weight of each of such shipments is 150 to 200 pounds.

From Crawfordsville, Indiana: Five shipments a year consisting of fence and fencing materials; the average weight of each of such shipments is 400 pounds or more.

From Milwaukee, Wisconsin: Three or four shipments a year consisting of barn equipment and stock tanks; the average weight of each of such shipments is 150 to 200 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company, over this route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of this business, and his business will continue to use the service of the Pennsylvania Railroad in conjunction with the rail-truck service described in the application.

John M. Rau, Cedar Springs, Michigan.

Agreed and stipulated: That he is one of the partners of Van-Schelven-Rau, a business which is engaged in selling general

448 hardware, steel roofing and stoves at Cedar Springs, Michigan.

That he is acquainted with the in-bound shipments which his company receives, consisting of general hardware, steel roofing, and stoves.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes, described in the application, from Grand Rapids, Michigan, to Cadillac, Michigan, in interstate commerce.

That the said in-bound shipments which his business receives over the Pennsylvania Railroad at Cedar Springs, Michigan, are as follows:

From Cleveland, Ohio: One shipment a week of general hardware, the average weight of which is 1 ton.

From Milwaukee, Wisconsin: One shipment a week of steel roofing, the average weight of which is 500 pounds.

From Indianapolis, Indiana: One shipment a week of stoves, the average weight of which is 1,000 pounds.

From Chicago, Illinois: One shipment a week of general hardware, the average weight of which is 1,000 pounds.

From South Bend, Indiana: One shipment a week of stoves, the average weight of which is 1,000 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

449 He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

L. W. Sawnyer, Sand Lake, Michigan.

Agreed and stipulated: That he oversees and looks after the traffic of the Bear Point Company, a business which is engaged in the manufacturing of paints and asphalt products at Sand Lake, Michigan.

That he is acquainted with the in-bound and out-bound shipments of his company; that he receives shipments consisting of pails, asbestos, and materials used in the manufacture of paints, and makes out-bound shipments of paint.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes described in the application, from Grand Rapids, Michigan, to Cadillac, Michigan, in interstate commerce.

That the said in-bound shipments which his business receives over the Pennsylvania Railroad at Sand Lake, Michigan, are as follows:

450 From Chicago, Illinois: Eight to ten shipments for the period from March to July, of pails and asbestos; the average weight of each of such shipments is from 500 to 4,000 pounds.

From Barber, New Jersey: Four to five shipments a year of barrels of gilsonite (material used in the manufacture of paint); the average weight of each of such shipments is 1,000 pounds.

That the said out-bound shipments which his business ships over the Pennsylvania Railroad from Sand Lake, Michigan, are as follows: one to six shipments daily during the season covering the months from March to July, of paint used inside of pickle barrels to points and places in the States of Texas, Indiana, Wisconsin, Louisiana, North Carolina, South Carolina, Colorado, Alabama, Georgia, Maine, and any other states where canners are located, and to all states where pickles are grown. The average weight of each of such shipments is from 300 to 500 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by the Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The

451 Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

Lloyd S. Reynolds, Howard City, Michigan.

Agreed and stipulated: That he is the owner of Reynold's Drug Store, a business which is engaged in selling drugs and sundries, and fountain supplies.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes described in the application, from Grand Rapids, Michigan, to Cadillac, Michigan, in interstate commerce.

That the said inbound shipments which his business receives over the Pennsylvania Railroad at Howard City, Michigan, are as follows:

From Chicago, Illinois: One to two shipments a week of drugs and sundries, the average weight of which is 400 pounds.

From St. Louis, Missouri: Four shipments a year of drugs and sundries, the average weight of each of such shipments is 1,200 pounds.

From Boston, Massachusetts: One shipment a year of fountain supplies, the average weight of which is 1,000 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

Ralph Jennings, Howard City, Michigan.

Agreed and stipulated: That he is the owner of Jennings' Hardware Store, a business which is engaged in selling hardware, electrical appliances, paint, and automobile accessories at Howard City, Michigan.

That he is acquainted with the in-bound shipments which his company receives, consisting of hardware, electrical appliances, paint, and automobile accessories at Howard City, Michigan.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes, described in the application, from Grand Rapids, Michigan, to Cadillac, Michigan, in interstate commerce.

That the said in-bound shipments which his business receives over the Pennsylvania Railroad at Howard City, Michigan, are as follows:

From Chicago, Illinois: One shipment a month of paints and batteries, the average weight of which is from 300 pounds to 1 ton.

From Decatur, Indiana: Six or eight shipments a month of general hardware items, the average weight of which is 400 pounds.

From Toledo, Ohio: Two or three shipments a year of general hardware items. The average weight of each of such shipments is from 400 to 500 pounds.

From Hammond, Indiana: One shipment a year of livestock remedies, the average weight of which is from 50 to 75 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc.,



for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

N. F. Croff, Morley, Michigan.

Agreed and stipulated: That he is the owner of Croff Hardware and Roofing, a business which is engaged in selling hardware, steel roofing, pumps, pipes, windmills, and oil stoves.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes, described in the application, from Grand Rapids, Michigan, to Cadillac, Michigan, in interstate commerce.

That the said in-bound shipment which his business receives over the Pennsylvania Railroad at Morley, Michigan, are as follows:

From Harvey, Illinois: Two or three shipments a year of barn-door tracks and accessories: The average weight of each of such shipments is from 300 to 500 pounds.

From Kendallville, Indiana: One shipment a month of pumps, pipes, and windmills, the average weight of which is from 400 to 600 pounds.

From Butler, Indiana: Three or four shipments a year of pumps, the average weight of each of such shipments is 100 pounds.

From Cleveland, Ohio: Five shipments a year of oil stoves. The average weight of each of such shipments is from 100 to 500 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Rail-

road service in conjunction with the rail-truck service described in the application.

Fred Brack, Stanwood, Michigan.

Agreed and stipulated: That he is the manager of Stanwood Marketing Association, a business which is engaged as a farmers' cooperative association selling grain, feed, seed, fertilizer, oil, machinery, electrical appliances, fencing materials, paint, harness, beans and potatoes, etc., at Stanwood, Michigan.

That he is acquainted with the in-bound shipments which his company receives, consisting of farm machinery, oil, grease, fly spray, etc.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes, described in the application, from Grand Rapids, 456 Michigan, to Cadillac, Michigan, in interstate commerce.

That the said in-bound shipments which his business receives over the Pennsylvania Railroad at Stanwood, Michigan, are as follows:

From Chicago, Illinois: Six shipments a year of farm machinery and seeds. The average weight of each of such shipments is 100 pounds.

From Muncie, Pennsylvania: Three shipments a year of grinding wares for the mill. The average weight of each of such shipments is 100 pounds.

From Cleveland, Ohio: One shipment a month of repair parts for the mill and farm machinery. The average weight of each of such shipments is from 10 to 100 pounds.

From Indianapolis, Indiana: Two shipments a month of oil, grease, and fly spray. The average weight of each of such shipments is from 200 to 2,000 pounds.

From Mansfield, Ohio: Two shipments a year of farm tools. The average weight of each of such shipments is from 1,000 to 1,200 pounds.

From Coldwater, Ohio: Six shipments a year of farm machinery, repair parts. The average weight of each of such shipments is 140 to 200 pounds.

The Witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this 457 route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his busi-

ness, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

S. D. Longcor, Big Rapids, Michigan.

Agreed and stipulated: That he is the manager of Judson's Hardware Company at Big Rapids, Michigan, a business which is engaged in selling general hardware, electrical appliances, gift merchandise, etc.

That he is acquainted with the in-bound shipments which his company receives, consisting of general hardware, electrical appliances, gift merchandise, etc.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes described in the application, from Grand Rapids, Michigan, to Cadillac, Michigan, in interstate commerce.

That the said in-bound shipments which his business receives over the Pennsylvania Railroad at Big Rapids, are as follows:

From Chicago, Illinois: Five or six shipments a year consisting of nails, sheet steel, tubs, etc., and galvanized hardware; the average weight of each of such shipments is from 500 to 8,000 pounds.

From Chicago, Illinois: One shipment every two or three weeks consisting of plumbing supplies; the average weight of each of such shipments is from 500 to 2,000 pounds.

From Wheatland, Pennsylvania: Four or five shipments a year consisting of pipe; the average weight of each of such shipments is 500 to 2,000 pounds or more.

From Joliet, Illinois: Two or three shipments a year consisting of wall paper, the average weight of each of such shipments is three hundred pounds.

From Chester, Virginia: Two shipments a year consisting of chinaware; the average weight of each of such shipments is 350 pounds.

From Chicago, Illinois: One shipment every two weeks, consisting of paint; the average weight of each of such shipments is 100 to 5,000 pounds.

From Georgetown, Connecticut: One shipment a year consisting of screen wire cloth; the average weight of each of such shipments is 500 pounds or more.

From Chicago, Illinois: Four shipments a year consisting of general merchandise and gift merchandise; the average weight of each of such shipments is 50 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

Urban Whalen, Big Rapids, Michigan.

Agreed and stipulated; That he is the shipping clerk of Good Housekeeping Shop, a business which is engaged in selling furniture, floor coverings and electrical appliances at Big Rapids, Michigan.

That he is acquainted with the in-bound shipments which his company receives, consisting of floor coverings, furniture and electrical appliances.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes described in the application, from Grand Rapids, Michigan to Cadillac, Michigan, in interstate commerce.

That the said in-bound shipments which his company receives over the Pennsylvania Railroad at Big Rapids, are as follows:

From Galaz, Virginia: Five shipments a year consisting of furniture, the average weight of each of such shipments is 1,000 pounds.

From Indianapolis, Indiana: Five shipments a year consisting of furniture, the average weight of each of such shipments is 1,000 pounds.

From Chicago, Illinois: Three shipments a year consisting of bed furnishings, the average weight of each of such shipments is 500 pounds.

From Warsaw, Indiana: Three shipments a year, consisting of furniture, the average weight of each of such shipments is 100 pounds.

From Richmond, Indiana: Six shipments a year consisting of furniture, the average weight of each of such shipments is 800 pounds.

From Knoxville, Tennessee: Three shipments a year consisting of furniture, the average weight of each of such shipments is 1,000 pounds.

From Desbrose, New York: Four shipments a year, consisting of lamps, the average weight of each of such shipments is 200 pounds.

From Broadville, Illinois: Five shipments a year consisting of furniture, the average weight of each of such shipments is 400 pounds.

461 From Milwaukee, Wisconsin: Seven shipments a year consisting of bedding; the average weight of each of such shipments is 1,500 pounds.

From Galva, Illinois: Two shipments a year consisting of display material, the average weight of each of such shipments is 100 pounds.

From Union City, Indiana: Six shipments a year consisting of furniture, the average weight of each of such shipments is from 400 pounds up.

From Jasper, Indiana: Five shipments a year consisting of furniture, the average weight of each of such shipments is 600 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

462 Charles W. Dean, LeRoy, Michigan.

Agreed and stipulated: That he is engaged in business as an individual selling memorial monuments and grave markers at LeRoy, Michigan.

That he is acquainted with the in-bound shipments which he receives consisting of monuments, grave markers, and memorials.

That he does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes, described in the application, from Cadillac, Michigan, to Grand Rapids, Michigan, in interstate commerce.

That the said in-bound shipments which he receives over the Pennsylvania Railroad at LeRoy, Michigan, are as follows:

From Delano, Minnesota: Four shipments a month consisting of monuments, grave markers, and memorials; the average weight of each of such shipments is 300 to 2,000 pounds.



From Knoxville, Tennessee: Two shipments a month consisting of monuments, grave markers, and memorials; the average weight of each of such shipments is 300 to 2,000 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

Lynn Matteson, Tustin, Michigan.

Agreed and stipulated: That he is engaged in the business of a plumber and well-driller at Tustin, Michigan.

That he is acquainted with the in-bound shipments which he receives consisting of windmills, pipe fittings, pumps, etc.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes, described in the application, from Grand Rapids, Michigan, to Cadillac, Michigan, in interstate commerce.

That the said in-bound shipments which his business receives over the Pennsylvania Railroad at Tustin, Michigan, are as follows:

From Kendallville, Indiana: Two to three shipments a month of windmills, pipe fittings, and pumps. The average weight of each of such shipments is from 300 to 400 pounds.

From Chicago, Illinois: One shipment a week of windmills, pipe fittings, and pumps. The average weight of such shipments is from 300 to 400 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Rail-

road service in conjunction with the rail-truck service described in the application.

Thomas Berghouse, Falmouth, Michigan.

Agreed and stipulated: That he is the general manager of Falmouth Co-Operative Co., which is engaged as a farmers' cooperative association selling grain, feed, seed, fertilizer, oil, machinery, electrical appliances, fencing materials, paint, harness, etc., at Falmouth, Michigan.

That he is acquainted with the in-bound shipments which his company received, consisting of farm machinery, oil, grease, roofing, tires, etc.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes described in the application, from Lake City, Michigan, to Manton, Michigan, in interstate commerce.

That the said inbound shipments which his business receives over the Pennsylvania Railroad at Falmouth, Michigan, are as follows:

From Chicago, Illinois: Four shipments a year consisting of repair parts. The average weight of each of such shipments is 200 pounds.

From De Pere, Wisconsin: Two shipments a year consisting of silo filler. The average weight of each of such shipments is 557 pounds.

From South Bend, Indiana: Nine shipments a year consisting of farm machinery. The average weight of each of such shipments is 236 pounds.

From Crawfordsville, Indiana: Four shipments a year consisting of machinery repairs. The average weight of each of such shipments is 65 pounds.

From Poughkeepsie, New York: Seven shipments a year consisting of cream separators. The average weight of each of such shipments is 200 pounds.

From Toledo, Ohio: Five shipments a year consisting of milkers. The average weight of each of such shipments is 188 pounds.

From Akron, Ohio: One shipment a year consisting of tires. The average weight of each of such shipments is 256 pounds.

From Indianapolis, Indiana: One shipment a year of oil. The average weight of each of such shipments is 90 pounds.

From Springfield, Ohio: Five shipments a year consisting of farm machinery. The average weight of each of such shipments is 100 pounds.

From Valparaiso, Indiana: Two shipments a year consisting of farm machinery. The average weight of each of such shipments is 437 pounds.

From Milwaukee, Wisconsin: One shipment a year consisting of seeds. The average weight of each of such shipments is 423 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

George H. Bayes, Manton, Michigan.

Agreed and stipulated: That he is the owner and operator of a photographic studio at Manton, Michigan.

That he is acquainted with the in-bound shipments which he receives, consisting of photographic supplies.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes, described in the application, from Lake City, Michigan, to Manton, Michigan, in interstate commerce.

That the said in-bound shipments which he receives over the Pennsylvania Railroad at Manton, Michigan, are as follows: one or two shipments a month of photographic supplies from Chicago, Illinois. The average weight of each of such shipments is from 50 to 100 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

Charles C. Hoefflin, Kingsley, Michigan.

Agreed and stipulated: That he is the owner of Hoefflin Hardware Store, at Kingsley, Michigan, a business which is engaged in selling general hardware, pumps, etc.

That he is acquainted with the in-bound shipments which his company receives, consisting of general hardware, pumps, dishes, etc.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes described in the application, from Cadillac, Michigan, to Traverse City, Michigan, in interstate commerce.

That the said in-bound shipments which his business receives over the Pennsylvania Railroad at Kingsley, Michigan, are as follows:

From Chicago, Illinois: One to two shipments a year consisting of general hardware; the weight of each of such shipments is 150 to 200 pounds.

From Kendallville, Indiana: Six to eight shipments a year consisting of pumps and pipe supplies; the average weight of such shipments is 120 to 200 pounds.

From Peoria, Illinois: Two to three shipments a year consisting of crockery and dishes; the average weight of each of such shipments is 100 or more.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of 469 Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

John L. Novak, Traverse City, Michigan.

Agreed and stipulated: That he is the secretary and general manager of Acemline Manufacturing Co., a business which is engaged in the manufacturing of farm tools and implements, fly sprays, tubes for smoke bombs for war purposes, etc., at Traverse City, Michigan.

That he is acquainted with the in-bound shipments which his company receives, consisting of materials used in the manufacture of commodities such as paint, castings, rubber hose, etc.

That he is acquainted with the out-bound shipments which his company ships, consisting of farm tools and implements, fly sprays, and tubes for smoke bombs for war purposes.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one  
470 of the routes, described in the application, from Cadillac, Michigan, to Traverse City, Michigan, in interstate commerce.

That the said in-bound shipments which his business receives over the Pennsylvania Railroad at Traverse City, Michigan, are as follows:

From Baltimore, Maryland: One shipment a month of tin can screws. The average weight of each of such shipments is 1,000 pounds.

From New Brunswick, New Jersey: One shipment a month of tin can screws. The average weight of each of such shipments is 100 pounds.

From Stamford, Connecticut: One shipment every two weeks of leather caps. The average weight of each of such shipments is from 300 to 1,000 pounds.

From Pittsburgh, Pennsylvania: Two shipments a year of steel bolts and nuts. The average weight of each of such shipments is 5,000 pounds. Also two shipments a year of cork washers. The average weight of each of such shipments is from 300 to 400 pounds.

From Philadelphia, Pennsylvania: Two shipments a year consisting of thread cutting oil and brushes. The average weight of each of such shipments is from 500 to 1,000 pounds.

From St. Louis, Missouri: One to two shipments a week of castings. The average weight of each of such shipments is from 500 to 4,000 pounds.

471 From Cleveland, Ohio: Six shipments a year consisting of paints, miscellaneous hardware items, and steel. The average weight of each of such shipments is from 3,000 to 5,000 pounds.

From Auburn, New York: One to two shipments a week of leather caps. The average weight of each of such shipments is from 2,000 to 5,000 pounds.

From Conshocken, New York: Four shipments a year of rubber hose. The average weight of each of such shipments is from 3,000 to 8,000 pounds.

That the said outbound shipments which his business ships over the Pennsylvania Railroad from Traverse City, Michigan, are as follows: from four to fifteen or twenty shipments daily consisting of farm tools and implements, and fly sprays to various points in every state in the United States. The average weight



of the total tonnage of all of such shipments for a particular day is 2,500 pounds. Regular shipments of tubes used for smoke bombs by the Canadian Government, the average weight and frequency of such shipments cannot be given because of war restrictions.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

Parker Hobbs, Traverse City, Michigan.

Agreed and stipulated: That he oversees and looks after traffic of the John C. Morgan Company, a business which is engaged in canning and distributing food products at Traverse City, Michigan.

That he is acquainted with the outbound shipments which his company ships, consisting of canned food products.

That he is acquainted with the inbound shipments which his company receives, consisting of materials used in the preservation and canning of food products.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes described in the application, from Cadillac, Michigan, to Traverse City, Michigan, in interstate commerce.

That the said inbound shipments which his business receives over the Pennsylvania Railroad at Traverse City, Michigan, are as follows:

From New York City, New York: One shipment a month of flavoring syrup; the average weight of each of such shipments is 50 to 60 pounds.

From Mt. Gilead, Ohio: Two or three shipments a season in the fall of the year consisting of chemicals; the average weight of each of such shipments is 100 pounds.

From Chicago, Illinois: Two or three shipments a year consisting of flavoring syrup; the average weight of each of such shipments is 50 to 100 pounds.

From Buffalo, New York: Two or three shipments a year consisting of maintenance parts used in our factory; the average weight of each of such shipments is 25 pounds or more.

From Brooklyn, New York: One shipment a year consisting of press cloths; the average weight of each of such shipments is 1500 pounds, and one shipment a month for five months of the year of reagent (ingredient used in the preservation of food stuffs); the average weight of each of such shipments is from 500 to 600 pounds.

That the said outbound shipments which his company ships over the Pennsylvania Railroad from Traverse City, Michigan, are as follows: Six or eight shipments of canned food products daily to points and places located in forty-four of the forty-eight states of the United States. The average weight of all of such shipments for a particular day is one ton.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana Inc., for The Pennsylvania Railroad Company over this 474 route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

Gordon D. Aldridge, South Boardman, Michigan.

Agreed and stipulated: That he is the owner and operator of a business which is engaged in selling groceries, general merchandise, and hardware at South Boardman, Michigan.

That he is acquainted with the inbound shipments which his company receives, consisting of general merchandise and hardware.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes described in the application, from Cadillac, Michigan, to Mackinaw City, Michigan, in interstate commerce.

That the said inbound shipments which his company receives over the Pennsylvania Railroad at South Boardman, Michigan, are as follows:

From Chicago, Illinois: One shipment per month of general merchandise and pumps and overalls; the average weight of each of such shipments is 300 pounds:

From Berne, Indiana: Six to eight shipments per year of overalls, the average weight of each of such shipments is 150 475—pounds.

From Quincy, Illinois: Just started handling stoves and have received one shipment weighing 250 pounds so far this year.

The witness has had explained to him the service to be rendered in the rail-truck service by the The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad in conjunction with the rail-truck service described in the application.

Fred H. Tompkins, Kalkaska, Michigan.

Agreed and stipulated: That he is the owner of a business which is engaged in selling general hardware, furniture, and plumbing supplies at Kalkaska, Michigan.

That he is acquainted with the in-bound shipments which his company receives, consisting of general hardware, furniture, and plumbing supplies.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes described in the application, from Cadillac, Michigan, to Mackinaw City, Michigan, in interstate commerce.

That the said in-bound shipments which his business receives over the Pennsylvania Railroad at Kalkaska, Michigan, are as follows:

From Chicago, Illinois: Four to five shipments a week in the summertime consisting of plumbing materials such as bathtubs, etc., the average weight of each of such shipments is from 200 to 300 pounds.

From Cincinnati, Ohio: Eight to ten shipments a year of sheet metal roofing, the average weight of each of such shipments is from 800 to 1,000 pounds.

From Indianapolis, Indiana: Two shipments a year of general hardware items and stoves, the average weight of each of such shipments is from 500 to 1,000 pounds.

From Owensboro, Kentucky: One shipment a year of breakfast sets, (furniture), the average weight of each of such shipments being 500 to 600 pounds.

From Nappanee, Indiana: Two shipments a year of high-chairs, the average weight of each of such shipments being 600 to 700 pounds.

From Kendallville, Indiana: Two to five shipments a year of steel chairs and wind mills, the average weight of each of such shipments being 1,000 pounds.

477 From Elyria, Ohio: Two or three shipments a year of steel chairs, the average weight of each of such shipments being 200 to 300 pounds. ▼

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him, that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

J. Donald Wisler, Mancelona, Michigan.

Agreed and stipulated: That he is employed as a clerk by his father, who owns and operates the Wisler Hardware Company, a business which is engaged in selling general hardware and farm implements at Mancelona, Michigan.

That he is acquainted with the inbound shipments which his company receives, consisting of general hardware and farm implements.

478 That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes described in the application, from Cadillac, Michigan, to Mackinaw City, Michigan, in interstate commerce.

That the said in-bound shipments which his business receives over the Pennsylvania Railroad at Mancelona, Michigan, are as follows:

From Chicago, Illinois: One shipment a month of roofing, the average weight of each of such shipments being 1,800 pounds or more.

From Kendallville, Indiana: One shipment a month of pumps and tanks, the average weight of each of such shipments is 400 to 500 pounds.

From Toledo, Ohio: One shipment a month of glass; the average weight of each of such shipments is from 300 pounds up.

From Milwaukee, Wisconsin: One shipment a month of stoves, the average weight of each of such shipments is from 250 to 600 pounds.

From Cincinnati, Ohio: Three to four shipments a year of stoves, the average weight of each of such shipments is from 250 to 600 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck  
479 service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

J. D. Rusnell, Alba, Michigan.

Agreed and stipulated: That he is one of the partners of Rusnell's Garage and Farm Implements, a business which is engaged in the repairing of automobiles and selling farm implements at Alba, Michigan.

That he is acquainted with the in-bound shipments which his company receives, consisting of automobile repair parts and accessories and farm machinery and implements.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes described in the application from Cadillac, Michigan, to Mackinaw City, Michigan, in interstate commerce.

That the said in-bound shipments which his business receives over the Pennsylvania Railroad at Alba, Michigan are as follows:

From Chicago, Illinois: Twelve to eighteen shipments a year of automobile accessories and farm machinery and implements, the average weight of each of such shipments is 200 pounds.

480 From Fort Wayne, Indiana: Twelve shipments a year of farm machinery and implements; the average weight of each of such shipments is 800 to 900 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company by 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his busi-



ness, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

Glenn S. Bain, Petoskey, Michigan.

Agreed and stipulated: That he is secretary of the Bremmeyr-Bain Co.; a business which is engaged in the wholesale selling of hardware, plumbing, and electrical supplies at Petoskey, Michigan.

That he is acquainted with the in-bound shipments which his company receives, consisting of general hardware, plumbing supplies, stoves, electrical appliances, etc.

That his business does now and has for several years used 481 the services of The Pennsylvania Railroad Company over one of the routes, described in the application, from Cadillac, Michigan, to Mackinaw City, Michigan, in interstate commerce.

That the said in-bound shipments which his business receives over the Pennsylvania Railroad at Petoskey, Michigan are as follows:

From Ford City, Pennsylvania: One shipment a month of plumbing supplies. The average weight of each of such shipments is from 2,000 to 3,000 pounds, up to 6,000 pounds.

From Lancaster, Pennsylvania: One or more shipments a week of linoleum. The average weight of each of such shipments is 2 tons or more.

From Pittsburgh, Pennsylvania: Two or three shipments a month, consisting of nails, wire, and glass. The average weight of each of such shipments is 1,000 to 2,000 pounds.

From Toledo, Ohio: One shipment a week of general hardware items. The average weight of each of such shipments is two tons.

From Cleveland, Ohio: Ten to twelve shipments a year of stoves. The average weight of each of such shipments is 1,000 pounds.

From Niagara Falls, New York: Two to three shipments a month of roofing. The average weight of each of such shipments is 3 tons.

From Versailles, Illinois: Two or three shipments a month of roofing. The average weight of each of such shipments is 3 482 tons.

From Akron, Ohio: Six shipments a year consisting of rubber goods, such as hose, belts, and packings. The average weight of each of such shipments is 2 tons.

From Warren, Pennsylvania: Four shipments a year of tools. The average weight of each of such shipments is 2 tons.

From Piqua, Ohio: Eight shipments a year of steel goods and shovels. The average weight of each of such shipments is 1,000 pounds.

From Columbus, Ohio: Four shipments a year of steel goods, and pitchforks. The average weight of each of such shipments is 1,000 pounds.

From Trenton, New Jersey: Two to three shipments a year of electrical appliances. The average weight of each of such shipments is 2 tons or more.

From Long Island, New York: One shipment a month of electrical appliances. The average weight of each of such shipments is 1 ton or more.

From Chicago, Illinois: One shipment or more daily consisting of lamps, stoves, pipe, furniture and radios. The average weight of each of such shipments is 1 to 2 tons.

From Milwaukee, Wisconsin: Ten to twelve shipments a year of granite ware. The average weight of each of such shipments is 2 tons.

483 From Goshen, Indiana: Eight shipments a year of step ladders. The average weight of each of such shipments is 2 tons.

From Rome, New York: Two to three shipments a month of electrical appliances. The average weight of each of such shipments is 2 tons or more.

From Indianapolis, Indiana: Two to three shipments a month of washing machines. The average weight of each of such shipments is 2 tons or more.

From Dayton, Ohio: Two to three shipments a month of paint. The average weight of each of such shipments is 2 tons or more.

From Blue Island, Illinois: Two to three shipments a month of wire. The average weight of each of such shipments is 2 tons or more.

From Wheeling, West Virginia: Two to three shipments a month of steel roofing. The average weight of each of such shipments is 2 tons or more.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

484 If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

Herman C. Meyer, Petoskey, Michigan.

Agreed and stipulated: That he is the owner of a hardware and farm implement business at Petoskey, Michigan.

That he is acquainted with the in-bound shipments which his company receives, consisting of general hardware and farm implements.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes described in the application, from Cadillac, Michigan, to Mackinaw City, Michigan, in interstate commerce.

That the said in-bound shipments which his business receives over the Pennsylvania Railroad at Petoskey, Michigan, are as follows:

From Kendallville, Indiana: One or two shipments a month of pumps and water systems. The average weight of each of such shipments is from 700 to 1,000 pounds.

From Chicago, Illinois: Six shipments a month, or it may be 4 or 12 a month of general hardware, plumbing, stoves, and sporting goods. The average weight of each of such shipments is from 200 to 1,000 pounds.

From Franklin, Tennessee: Two shipments a year of stoves. The average weight of each of such shipments is 1,500 pounds.

From Moline, Illinois: Occasional shipments of farm machinery parts. The average weight of each of such shipments is 100 pounds or more.

From Cincinnati, Ohio: Two or three shipments a month of stoves and belting. The average weight of each of such shipments is from 200 to 1,000 pounds.

From Toledo, Ohio: Two to three shipments a month during the season or six to eight a year of separator parts and oil. The average weight of each of such shipments is 1,000 pounds or more.

The Witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

August Schwertfeger, Harbor Springs, Michigan.

486 Agreed and stipulated: That he is one of the partners of Harbor Springs Furniture Co., a business which is engaged in selling furniture and house furnishings at Harbor Springs, Michigan.

That he is acquainted with the in-bound shipments which his company receives, consisting of furniture and house furnishings.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes, described in the application, from Cadillac, Michigan, to Mackinaw City, Michigan, in interstate commerce.

That the said in-bound shipments which his business receives over the Pennsylvania Railroad at Harbor Springs, Michigan, are as follows:

From Chicago, Illinois: Twelve or thirteen shipments a year of window shades and blinds. The average weight of each of such shipments is 700 pounds or more.

From Kenosha, Wisconsin: Fifteen or sixteen shipments a year of beds, mattresses, and porch gliders. The average weight of each of such shipments is 1,000 to 1,200 pounds.

From Ripon, Wisconsin: Six shipments a year of washing machines. The average weight of each of such shipments is 350 pounds.

From Duluth, Minnesota: Twelve shipments a year of rugs. The average weight of each of such shipments is 500 to 600 pounds.

487 From New York City, New York: One shipment a year of shoes and slippers, the average weight of which is 150 pounds.

From Goshen, Indiana: One or two shipments a year of playground equipment. The average weight of each of such shipments is from 200 to 300 pounds.

From Cincinnati, Ohio: Three or four a year of bamboo and wrought-iron furniture. The average weight of each of such shipments is from 400 to 600 or 700 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service, serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Rail-

road service in conjunction with rail-truck service described in the application.

Leon B. Wlron, Harbor Springs, Michigan.

Agreed and stipulated: That he is secretary and treasurer of Wlron, Friend & Cassidy Hardware Company, a business which is engaged in selling general hardware at Harbor Springs, Michigan.

488 That he is acquainted with the in-bound shipments which his company receives, consisting of general hardware, sheet metal, tin, etc.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes described in the application, from Cadillac, Michigan, to Mackinaw City, Michigan, in interstate commerce.

That the said in-bound shipments which his business receives over the Pennsylvania Railroad at Harbor Springs, Michigan, are as follows:

From Chicago, Illinois: General hardware, pipe, and pipe fittings, one shipment a day during the summer time, and one shipment every two weeks during the winter time; the average weight of each of such shipments is 300 to 1,500 pounds.

From Milwaukee, Wisconsin: One shipment a day during the summer time and one shipment every two weeks during the winter time, consisting of general hardware, pipe, and pipe fittings; the average weight of each of such shipments is 300 to 1,500 pounds.

From Kendallville, Indiana: One shipment a day during the summer time and one shipment every two weeks during the winter time, consisting of general hardware, pipe, and pipe fittings; the average weight of each of such shipments is 300 to 1,500 pounds.

From Youngstown, Ohio: One shipment a week during the summer time and one shipment every two weeks during the winter time, consisting of sheet metal, tin, steel, and tubes; the  
489 average weight of each of such shipments is 150 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.



Clifford Fairbairn, Alanson, Michigan.

Agreed and stipulated: That he is one of the partners of W. W. Fairbairn & Sons, a business which is engaged in selling general hardware and plumbing supplies at Alanson, Michigan.

That he is acquainted with the in-bound shipments which his company receives, consisting of general hardware; gloves, electrical appliances, etc.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes, described in the application, from Cadillac, Michigan, to Mackinaw City, Michigan, in interstate commerce.

490 That the said inbound shipment which his business receives over the Pennsylvania Railroad at Alanson, Michigan, are as follows:

From Chicago, Illinois: One shipment every two weeks during the summer, consisting of paint and general hardware items, pipe, fittings, radios, etc. The average weight of each of such shipments is from 300 to 500 pounds.

From Ashland, Ohio: One shipment a month from January 1 to September 15 of automatic water systems. The average weight of each of such shipments is 350 pounds.

From Dubuque, Iowa: One to two shipments a year of gloves. The average weight of each of such shipments is 150 pounds.

From Minneapolis, Minnesota: One shipment a year of seed. The average weight of each of such shipments is from 150 to 300 pounds.

From Milwaukee, Wisconsin: Five to six shipments a year of steel goods, such as bar iron, shovels, etc. The average weight of each of such shipments is from 200 to 300 pounds.

From Wheeling, West Virginia: Three shipments a year consisting of galvanized ware and roofing. The average weight of each of such shipments is 300 pounds or more.

From Cincinnati, Ohio: One shipment a month of steel roofing and stoves. The average weight of each of such shipments is 1,200 pounds to 1,500 pounds.

From Shelbyville, Indiana: Two shipments a year of 491 lawn mowers. The average weight of each of such shipments is 300 pounds.

From Indianapolis, Indiana: One shipment a year of stoves. The average weight of each of such shipments is from 500 to 600 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

Ralph D. Walker, Levering, Michigan.

Agreed and stipulated: That he is one of the partners of J. J. Walker & Sons, a business which is engaged in selling general merchandise at Levering, Michigan.

That he is acquainted with the inbound shipments which his company receives, consisting of general merchandise.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes described in the application, from Cadillac, Michigan, to Mackinaw City, Michigan, in interstate commerce.

That the said inbound shipments which his business receives over the Pennsylvania Railroad at Levering, Michigan, are as follows:

From Chicago, Illinois: Two shipments a month consisting of groceries and coffee; the average weight of each of such shipments is 150 pounds.

From Berne, Indiana: Four shipments a year consisting of drygoods; the average weight of each of such shipments is from 75 to 150 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad service, in conjunction with the rail-truck service described in the application.

L. H. Liebeck, Mackinaw City, Michigan.

Agreed and stipulated: That he is the owner and operator of a meat and grocery store at Mackinaw City, Michigan.

That he is acquainted with the in-bound shipments which he receives, consisting of gloves, soap, paper bags, etc.

That his business does now and has for several years used the services of The Pennsylvania Railroad Company over one of the routes, described in the application, from Cadillac, Michigan, to Mackinaw City, Michigan, in interstate commerce.

That the said in-bound shipments which his business receives over the Pennsylvania Railroad at Mackinaw City, Michigan, are as follows:

From Fort Wayne, Indiana: one shipment a week of paper and paper bags, and picnic dishes, the average weight of which is from 200 to 400 pounds.

From Berne, Indiana: One shipment a year of gloves, the average weight of which is 150 pounds.

From Jeffersonville, Indiana: Two shipments a year of soap. The average weight of each of such shipments is 200 to 250 pounds.

The witness has had explained to him the service to be rendered in the rail-truck service by The Willett Company of Indiana, Inc., for The Pennsylvania Railroad Company over this route serving his said business.

He has also had explained to him that this rail-truck service, serving his business, if instituted, will expedite the movement of the shipments to and from his business by The Pennsylvania Railroad Company 24 hours or more.

If such service is authorized by the Interstate Commerce Commission, it will serve the convenience and necessity of his business, and his business will continue to use the Pennsylvania Railroad service in conjunction with the rail-truck service described in the application.

Mr. CLARDY. Now, your Honors, we have entered into these stipulations, and thus shortened very materially the trial of the proceeding, but we still have another witness to be cross examined. I want it shown on the record that our agreeing to the stipulations was conditioned upon the agreement of counsel, pursuant to their discussion off the record, with respect to a further hearing in this matter.

Mr. HARRY YOCKEY. For the protestants to introduce their evidence, if any.

Mr. BARKELL. Yes. Where does that leave us now, Mr. Yockey, as far as the applicant is concerned?

Mr. HARRY YOCKEY. That, your Honor, leaves us in this position, as far as the applicant is concerned, that Mr. McArdle is to be recalled, to testify to the financial statement; and Mr. Christie is to be recalled for cross examination. Do you gentlemen want to cross examine Mr. McArdle on the financial statement?

495 Mr. MOBERLY. We have not seen it yet.

Mr. DES ROCHES. We would like to see it.

Mr. HARRY YOCKEY. Well, then, that leaves Mr. McArdle and Mr. Christie.

Mr. BARKELL. Now, gentlemen; let us give the Reporter a chance, please.

Mr. CLARDY. And not talk two at a time.

Mr. BARKELL. No, one at a time.

Mr. CLARDY. May I make this further suggestion, your Honor: undoubtedly all of the witnesses will not realize the full import of what we have done here, and I think that it might be wise, therefore, for the Chairman, as well as counsel for the applicant, to let them know that, if they desire, their testimony has been taken care of, and they may be excused. As far as we are concerned, they may be excused, and I assume that some of them, at least, very probably want to be about their business.

Mr. HARRY YOCKEY. If the Board please, may we be off the record a moment?

Mr. BARKELL. Off the record.

(Discussion outside the record.)

Mr. BARKELL. Back on the record. Let the record show, Mr. Reporter, that we are now recessing, to reconvene at 2 o'clock this afternoon.

(At 12 o'clock noon, recess until 2 o'clock p. m.)

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AFTER RECESS

The hearing was resumed pursuant to recess, 2 o'clock p. m.

Mr. BARKELL. Come to order, gentlemen. Are you ready to proceed, Mr. Yockey?

Mr. HARRY YOCKEY. Yes.

Mr. BARKELL. Is Mr. McArdle here?

Mr. HARRY YOCKEY. Yes. Will you take the stand again, please, Mr. McArdle?

J. P. McARDLE recalled:

Direct examination by Mr. HARRY YOCKEY:

Q. You are the same Mr. McArdle who has been previously sworn and testified in this proceeding, are you?

A. Yes.

Mr. HARRY YOCKEY. Do you gentlemen want to cross examine Mr. McArdle on the financial statement?

Mr. DES ROCHES. I do not care to.

Mr. HARRY YOCKEY. Apparently, your Honor, counsel for protestants do not want to cross examine Mr. McArdle.

Mr. EGGERS. This is Applicant's Exhibit No. 12, that you are talking about now, is it?

Mr. HARRY YOCKEY. Yes.

497 Mr. BARKELL. Is there any cross-examination of this witness, gentlemen, on Applicant's Exhibit No. 12 for identification? (No response.) If not, is there any objection to Applicant's Exhibit 12?

Mr. DES ROCHES. I have no objection.

Mr. BARKELL. There being no objection, Applicant's Exhibit 12 is received in evidence.

(Applicant's Exhibit No. 12, Witness McArdle, received in evidence.)

Mr. CLARDY. Just a moment, please. I am a bit confused. Applicant's Exhibit No. 12 is the financial statement, is it not?

Mr. BARKELL. Yes.

Mr. CLARDY. All right.

Mr. HARRY YOCKEY. Do you gentlemen want copies of this statement?

Mr. EGGERS. Off the record.

(Discussion outside the record.)

Mr. EGGERS. Back on the record.

Mr. BARKELL. If there are no further questions of Mr. McArdle, he is excused.

The WITNESS. Thank you.

(Witness excused.)

Mr. BARKELL. Proceed, Mr. Yockey.

Mr. HARRY YOCKEY. I take it, if the Board please, that the next matter is the discussion of those two questions in  
498 evidence, in connection with Mr. Christie.

Mr. BARKELL. Yes. I think that we had better dispose of those before we proceed with Mr. Christie's cross-examination.

Mr. HARRY YOCKEY. I will be very brief, your Honor. I simply desire to read to you portions of three cases.

Mr. EGGERS. I suggest that you state the questions again, Mr. Yockey, so that the record will be clear at this time as to just what we are discussing.

Mr. HARRY YOCKEY. Yes.

Mr. EGGERS. And so that our recollections will be refreshed.

Mr. HARRY YOCKEY. Yes. May I proceed?

Mr. BARKELL. Yes.

Mr. HARRY YOCKEY. If the Board please, there are two questions involved regarding the testimony of Mr. Christie, covering the two subjects that I attempted to go into after Mr. Christie had testified up to a certain point. I tried then to go into those subjects a little more fully, and objection was made, and the ruling



was deferred in each one of the cases, in order to give me an opportunity to present the legal phase of the situation. The first of the questions was this: After Mr. Christie had testified that there would be a reduction in operating expenses of the Pennsylvania Railroad, I then asked him if he would please enumerate those items of saving. There was objection interposed to that, on the ground that the testimony was not pertinent.

Now as I said, I only want to read from three cases. There are a number of these cases, but first, here is the case of Missouri Pacific Railroad Company and Missouri Pacific Railroad Corporation in Nebraska, which was a case involving station to station substituted freight service:

Exam. HARRISON. Will you give us the citation of that case right here, please, Mr. Yockey.

Mr. HARRY YOCKEY. The citation is MC 44609. The volume in the Motor Carrier Reports is 22—volume 22 MCC, page 321; and I read now from page 329, as follows: "Less-than-carload shipments originating on the rail lines of applicant and applicant's rail connections are transported in carload lots to certain break-bulk points, from which distribution to final destinations is made in motor service. Similarly, less-than-carload shipments from points on the considered routes for destinations beyond the break-bulk points are handled in motor service to such break-bulk points and there forwarded in rail service. Existing rail facilities of applicant are utilized in performance of the services by motor vehicle. Local freight trains are relieved of the handling of less-than-carload traffic, thus expediting"—there is your word!—"the movement of carload traffic. Schedules of the local freight trains have been made more dependable and regular, and switching services for commercial concerns at the consid-

ered points are performed at earlier hours." Just as Mr. Christie has testified here. "Applicant's motor operations enable applicant to maintain later departures from points of origin and earlier arrivals at destinations. The time in transit of the shipments has been materially reduced, in many instances more than 24 hours." Now, then, if your Honor's please, here we get to the point in question. "Substantial operating economies have been effected. The coordinated motor and rail service has enabled applicant to eliminate daily the use of 63 freight-train cars"—

Mr. BARKELL. Just a moment right there, now, Mr. Yockey, before you go any further.

Mr. HARRY YOCKEY. Yes.

Mr. BARKELL. To whom or to what are they referring as the applicant in this case?

Mr. HARRY YOCKEY. In this particular instance, your Honor, it was the railroad that was eliminating the use of the freight-train cars.

Mr. BARKELL. Was the railroad the applicant in this case?

Mr. HARRY YOCKEY. Well, now, let me be sure about that. Let me see just a moment. As I remember the case, it was the Missouri Pacific Railroad Company and Missouri Pacific Railroad Company Corporation in Nebraska. There were two of them. But it would not make any difference, however, your Honor, whether it was the railroad or the subsidiary that was doing it.

It is simply a question of whether or not it is a saving to the  
501 railroad. There is no difference at all in the proposition.

Mr. EGGERS. Well, now, Mr. Yockey, that is the point that I was a little bit doubtful about, in my own mind; that is, as to whether or not it was proper, the applicant in the case which we have before us here being the Willett Company, to permit any saving to be shown that might accrue to the Pennsylvania Railroad, which for all practical purposes, you might say, at least as far as this particular hearing is concerned, would almost constitute a third party. The Pennsylvania Company is not the applicant in this case, and has no interest in this hearing whatsoever.

Mr. HARRY YOCKEY. Well, your Honor, the Pennsylvania Railroad Company is an intervener in this proceeding; and in these cases, if we take the time to go into them, we will find it has been held that the same thing inures to the subsidiary as to the railroad, because the service is being expedited.

Mr. EGGERS. I would agree that in a situation like this, for example, where an applicant, a motor carrier, has filed an application to eliminate a certain route, in order to expedite the movement of its shipments by carrying them over a shorter route, that you could go into the question of saving to that particular applicant. I think in a situation of that sort, such evidence should be properly received. But I am not quite certain in my own mind,  
502 at least for the moment, as to whether or not the saving can be shown when it is a saving to another party, not the applicant.

Mr. HARRY YOCKEY. Well, your Honor, I have just been looking at this case here, and it is the case of a subsidiary of the Missouri Pacific Company. In this particular case, it is a subsidiary of the Missouri Pacific Railroad Company.

Mr. BARKELL. Well, Mr. Yockey, does it definitely state in the report from which you are reading that the applicant was able to eliminate so many cars from service?

Mr. HARRY YOCKEY. As I said, your Honor, in this particular case there were two of them.

Mr. BARKELL. Well, the trucking company would not be able to eliminate cars from railroad service, would it?

Mr. HARRY YOCKEY. Of course not.

Mr. BARKELL. That is the question.

Mr. HARRY YOCKEY. But that will be the result.

Mr. BARKELL. I still am not just clear. In this case from which you are now reading, was the railroad company itself the applicant?

Mr. HARRY YOCKEY. One of the applicants.

Mr. DES ROCHES. Mr. Yockey, would you mind stating for the record what the correct title of the case is, which you are now citing.

Mr. HARRY YOCKEY. Missouri Pacific Railroad Company, common carrier application—well, now, let me see just a moment.

Missouri Pacific Railroad Company and Missouri Pacific Railroad Corporation in Nebraska.

Mr. DES ROCHES. Is that the title?

Mr. HARRY YOCKEY. Yes.

Mr. CLARDY. Well, if your Honors please, may I direct one inquiry—

Mr. HARRY YOCKEY. Well, now, will you wait just a minute, please, Mr. Clardy. Let me see here.

Mr. BARKELL. What is it, Mr. Clardy?

Mr. CLARDY. May I direct one inquiry to Mr. Yockey, which perhaps will shorten the matter a little.

Mr. HARRY YOCKEY. I am trying to read this case here, and trying to work in a hurry, and I wish you would indulge me for just a moment.

Mr. CLARDY. I am sorry.

Mr. EGGERS. Let us be off the record a moment.

(Discussion outside the record.)

Mr. BARKELL. Back on the record.

Mr. CLARDY. Now, your Honor, may I suggest something that may help to shorten up the matter?

Mr. BARKELL. We would like to wait just moment further, Mr. Clardy, until Mr. Examiner Harrison gets the volume that Mr. Yockey has cited.

Mr. CLARDY. Oh, yes.

(Further discussion outside the record.)

Mr. BARKELL. Now back on the record, Mr. Reporter.

504 Mr. CLARDY. Now, your Honor, may I suggest something that I think may be of assistance to all of us, in the consideration of these citations?

Mr. BARKELL. Yes.

Mr. CLARDY. I would like to have Mr. Yockey, as he is reading these decisions to us, point out the specific language in each decision wherein it is shown that objection was made, as in this case, and the point raised considered and disposed of favorably to his contention. In other words, we are just simply wasting time here in reading these decisions, unless it is shown, first, that in those cases the particular point was raised, and second, that the decision was in his favor, because, unless the point was raised, the mere fact that the evidence was presented without objection, and treated of in the opinion, settles nothing. If the question was not raised there, then the mere fact that the opinion discusses it is merely indicative of the fact that there was some proof put in, maybe a great deal and maybe practically none—we do not know; but it does not decide the legal question that I raised in my objection as to the admissibility of the testimony, unless that question was also raised there and decided. In other words, the dictum set up in the case, or appearing in the case, is not even dictum; it does not rise to that dignity, even, unless the point was raised, and there is some specific language in the decision to indicate that the point was raised.

505 Mr. EGGERS. Well, now, Mr. Clardy, are you saying there in substance that we should not consider any dictum in any case, at all? Is that what you are saying?

Mr. CLARDY. Not only that, your Honor, but I go further than that, and say that the mere fact that there has been some kind of discussion of evidence of that nature in some other case, does not have anything whatever to do with the legal objection that I have raised here.

Mr. EGGERS. Well, of course I take it that it is within the province of this Joint Board, or any Joint Board, to determine whether or not matter is dictum, or whether or not it will be considered as such.

Mr. CLARDY. Oh, yes.

Mr. EGGERS. It is subject to argument, of course. I will concede.

Mr. CLARDY. I am just pointing out that if nobody raised the question, but permitted the evidence to be presented, that settles nothing from a legal standpoint, as to whether the evidence would or would not be admissible. Now if the question was not there presented, and if it is presented here as a legal question, then you have it before you for the first time, and you must make an independent determination. In other words, your Honor, this case, or these cases, cannot be any authority for his position if the point was not raised.

Mr. BARKELL. You may proceed, Mr. Yockey.

506 Mr. HARRY YOCKEY. I think if the Board please, that the position that Mr. Clardy has taken is a very unusual one. I think the law is against him. We contend that where you find evidence discussed in a case, and it is followed by the tribunal considering the case, there is only one presumption that can properly be drawn, and that is that the evidence is admissible, and that it is material; and the presumption is that the tribunal considered it to be admissible or it would not have based its decision upon it. I contend that the mere fact that no objection was raised to the testimony, does not wipe the testimony out; but it goes, as a matter of fact, to the very reverse of that, and indicates that not only was there no question raised, but that it was admissible, anyway, without any difficulty. I contend that is the only inference that can be drawn. Now continuing with this case. In this particular case there were two railroad companies involved, both of them Missouri Pacific Companies. I want to read from this a little further, because it goes to the very gist of the subject. "Substantial operating economies have been effected. The coordinated motor and rail service has enabled applicant to eliminate daily the use of 63 freight-train cars, thus conserving equipment and eliminating the expense of switching such cars daily to the freight platforms and from the freight platforms to the classification yards and into particular trains. Heavier loading of cars

507 has been accomplished by the consolidation of less-than-carload shipments into one car for each break-bulk point. The use of motor equipment has enabled applicant to maintain more frequent services between the considered points than were formerly maintained in its rail services. Over certain routes an annual saving of 131,700 train-miles has been effected. Through the elimination of station work, the schedules of local trains have been substantially shortened." Then it gives an illustration of that. I continue reading—and this goes to the same thing that has been raised here: "Various protestants submitted evidence showing their routes of operation paralled or traverse certain of the routes of applicant and that they serve numerous points on such routes. They assert that their present facilities and services are adequate and sufficient, and that they are able, ready, and willing to supplement their present equipment and facilities, if traffic requirements should demand. They state that applicant has not endeavored to secure coordinated rail and motor services with the existing motor carriers, and they take the position that the existing motor carriers in the considered territory should be afforded opportunity to improve their present services and facilities before authorization for new services is granted. Protestants further consider that the continuation of applicant's motor services would



result in unfair and destructive competition practices." And then they add: "Substantially similar contentions were advanced by certain protestants in *Kansas City Southern Case*, supra, 508 and our views with respect thereto are amply set forth therein." They stated there that they were not tenable objections. "The proposed motor services are not competitive with applicant's rail services, and there is no showing that they, in any instance, invade the territories of any other rail carriers. They may therefore be classified as 'approved operations' as defined in *Pennsylvania Truck Lines, Inc.—Control—Barker Motor Freight*"—citing that case. "It is clear that they have resulted in substantial operating economies, and that they have proven to be of material advantage to the public." That is, these operating savings that I have been speaking of—and this is the authority that I cited yesterday—"have proven to be of material advantage to the public. Since such services are strictly confined to rail points now served by applicant, their continuance will not unduly restrain competition." Reading now from page 332: "The record warrants the conclusion that the services to be authorized are those which are supplemental of, or auxiliary to, and coordinated with that of the two railroad companies. The certificates herein granted covering such proposed operations will be limited accordingly." That is, as to being supplemental of, auxiliary to, and coordinated with the rail service, which is our situation here. Now, then, the things that are discussed here, that are set forth in this decision that I have just read, are the specific things that we want to inquire about here. They cover savings in car-

509 miles, the use of boxcars, reduction in overtime of local freight train crews, reduction in yard switching expense—I will give you all of them; reduction in engine hours, reduction in stowing freight in cars; reduction in second handling of freight; and certain intangible savings.

Mr. BARKELL. Now, Mr. Yockey, in what respect are any of those purported savings going to affect the applicant in this case?

Mr. HARRY YOCKEY. It affects the railroad, and that is their reason for putting in the service. If there were not any savings, and if it did not expedite the movement of the traffic it would not be permitted. In other words, without that, certificates would not have been granted in those instances where certificates have been granted.

Mr. ANDERSON. If the Board please, may I interrupt to ask a question of Mr. Yockey?

Mr. BARKELL. Yes.

Mr. ANDERSON. Mr. Yockey, the case that you have been reading of from here is not a case involving the Willett Company, is it?

Mr. CLARDY. No.

Mr. HARRY YOCKEY. How is that again?

Mr. ANDERSON. The case that you have just been citing to the Board is not a case involving the Willett Company, is it?

Mr. HARRY YOCKEY. No.

Mr. ANDERSON. Who was the applicant in that case?

510 Mr. HARRY YOCKEY. This is a Missouri Pacific Railroad case.

Mr. ANDERSON. The railroad was the applicant?

Mr. HARRY YOCKEY. Yes.

Mr. ANDERSON. Well, now, right there, it seems to me, your Honors, is the point. If the railroad company was the applicant here, or at least if the Willett Company was working with the railroad, as in the other case, under a prior-and-subsequent-rail-movement arrangement, then I can see how it might be proper; but here is an independent proposition by the Willett Company, competing with the other carriers in every way, as was developed in the evidence yesterday; and for that reason I do not think Mr. Yockey's citation is in point at all.

Mr. HARRY YOCKEY. If the Board please, let me read you briefly from another case, Texas & Pacific Motor Transport Company, No. MC 50544 Sub. No. 10, reported in 30 MCC 465. I am reading from page 467. "The proposed extension is not a new operation, but merely an improvement of a service already performed by applicant in its present operations. The bulk of the traffic to benefit from the improvement is already being handled by applicant." That is, they are already in operation. "If the improved service should attract additional traffic to applicant, that fact should not deprive the public of the substantial advantage that would come from more expedited service. The proposed changes would not deprive any community of service  
511 now being rendered and would not result in any reduction of employees. The changes would have the desirable result of more economical operations by applicant."

Mr. ANDERSON. What is that case?

Mr. HARRY YOCKEY. Texas & Pacific Motor Transport Company.

Mr. CLARDY. What is the citation?

Mr. BARKELL. Volume and page.

Exam. HARRISON. 30 MCC 465?

Mr. HARRY YOCKEY. Texas & Pacific Motor Transport Company, Extension of Operations, 30 MCC 465.

Mr. ANDERSON. 465?

Mr. HARRY YOCKEY. Yes.

Mr. ANDERSON. Will you at this time give us the citation of the other cases, if any, that you are going to rely on?

Mr. HARRY YOCKEY. Here is something that I want to read on the other proposition, from Atlantic Coast Line Railroad Company, Extension of Operations, 30 MCC page 491. "Protestants contend that the Commission erred in referring the application to a Joint Board"—well, just a moment. That does not apply. "We are also of the opinion that public convenience and necessity require the proposed service. What applicant is seeking is not to enter a new field of service, but to substitute a more economical and flexible service." That is the contention that is made in this case; it is not a new service.

512 "Applicant has been and is transporting the traffic in question by rail, and it is under obligation to continue to do so. The proposed coordinated rail-truck service will result in a saving and a more efficient handling of merchandise traffic as well as in an improvement in the handling of carload traffic. Protestants assert that Thurston Motor Lines serve all of the points involved, and it may be, as contended, that existing motor-carrier service is adequate, but one competitive carrier or class of carriers has no vested right in the continuation by another of an inefficient method of operation. Rather, we believe it to be the policy of Congress and the proper function of this Commission to foster any form of progress in transportation which will serve the public interest." Now, if the Board and the Examiner please, I believe that, on the basis of these decisions from which I have read you, we are entitled to introduce this evidence; if there is any doubt in your minds, I think, rather than requiring us to make an offer of proof, and delaying the matter, we should be allowed to introduce the evidence, and protestants may make their motion to strike. We have gotten it in, in every other case that we have been in; it is in every one of these other cases that have been before the Commission; and in order to make this record clear, I think that we should be permitted to put the evidence in, in this case also; and then if counsel for protestants want to move to strike it out, they may make their motion of record, and their rights can be amply saved. Otherwise,  
513 if you rule it out, it is going to delay the matter, from our standpoint, and an offer of proof will not get it into the record, but will only save the error. Nobody will be harmed if we are permitted to put the evidence in, over the objection. I think it will best serve everybody, if it be done that way. I have no objection, of course, to raising and discussing the matter on brief; but we feel very definitely, of course, that this is the law, and as I say, we have done it in every other one of these cases.

Mr. CLARDY. May I point out again, your Honor, that it has now been fully demonstrated that all of the citations go to a

totally different point than we have involved here; because each of them has to do with a case in which, admittedly, the railroad was the moving party seeking extension authority. Further, let me point out again that not one of these citations indicates that the question of the admissibility of the evidence was ever raised, much less passed on. Now I am not in the habit of citing a case, either on brief or elsewhere, as authority for any contention of mine that the courts have held a certain way on a certain legal proposition, unless the case, by its very language, indicates that the particular question was raised. The courts, as your Honors well know, have stated many times, "Certain points were not raised below, and we therefore do not pass upon them."

Mr. EGGERS. Mr. Clardy, let me interrupt you right there.

Mr. CLARDY. Yes.

514 Mr. EGGERS. You would not suppose, would you, that the Commission—these are all decisions of the Commission, as I understand it, that you have been citing to us; is that correct?

Mr. HARRY YOCKEY. Oh, yes.

Mr. EGGERS. You would not suppose that the Commission would spend that much time discussing a question that had not been raised, would you, Mr. Clardy?

Mr. CLARDY. Certainly.

Mr. EGGERS. Do you know that in those cases the question was not raised directly? You are just supposing, are you not?

Mr. CLARDY. There is no language in the decisions to indicate that the question was raised.

Mr. EGGERS. Well, now, I want to clearly understand your contention. You are just assuming something, are you not?

Mr. CLARDY. No, no, your Honor. I am going much further than that. I say that when a question of that importance is raised, it certainly will be discussed, and in the opinion it will be stated in plain language, "Protestants objected to the receipt of such evidence," and then they will proceed to discuss the fact that they think it competent. Now all that these citations which Mr. Yockey has advanced, prove is that the Commission either conjured up its own ideas as to those facts, or found something in the record upon which to base, not a statement of fact, but the statement of a number of conclusions as to what they thought the evidence might show. They do not, however,  
515 indicate by a single word that protestants made any objection to the receipt of that kind of testimony, or at any time objected to the consideration of it; and as proof of that fact, I point out that when he went beyond the question that is here involved, he read from one of those decisions, language in which

the Commission said in substance: "Protestants contend that they can perform the service," and I say that indicates that the Commission has committed what I stated at the outset was an error, in saying that the thing should be done a certain way. Now aside from the mere fact that the decision from which he read indicates that a certain point was raised by protestants, and decided against them, it indicates that the other question about the admissibility of proof on the subject of financial savings, was not raised, because the language with respect to the question that was raised, did not even touch that.

516 It merely touched upon the question of the availability of service of the other carriers, and their desire to continue to serve, and to get that business. Now, it is never customary for any lawyer whom I know anything about, to ever cite a case as supporting his position, unless the point was raised, not by indirection, but squarely; and therefore, I point out that these citations are not authoritative. Now, as to the merits—

Mr. EGGERS. Yes; let us spend a little time on that; that is, no more time than you have been given, but let us spend some time on that.

Mr. CLARDY. All right. I just want to say, though, that the cases cited by counsel mean less than nothing, because they do not indicate any decision. Now, then, on the merits of the thing—

Mr. BARKELL. Just a moment, please.

Mr. EGGERS. Off the record.

(Discussion outside the record.)

Mr. BARKELL. Back on the record.

Mr. HARRY YOCKEY. Those citations are: 22MCC321; 30MCC491; and 30MCC465.

Mr. CLARDY. Now, your Honors, if I may say just a word on the merits.

Mr. BARKELL. Very well.

517 Mr. CLARDY. Just briefly—and more briefly, I hope, than Mr. Yockey did.

Exam. HARRISON. Three minutes, Mr. Clardy.

Mr. CLARDY. Well, now, your Honor, you gave Mr. Yockey considerably more time than that.

Exam. HARRISON. But you have been talking about five minutes now.

Mr. CLARDY. I have not been talking anywhere nearly as long as he did.

Mr. EGGERS. Just very briefly, Mr. Clardy, what was it you started to say?

Mr. CLARDY. Well, let me say first, I do not understand that I am going to be prevented from presenting my point.



Exam. HARRISON. Mr. Clardy, if my recollection serves me correctly, you covered all this in your original argument.

Mr. CLARDY. I beg your pardon, your Honor. I have not argued at all as to the merits, yet.

Exam. HARRISON. I think, however, for the purposes of this record, you have been talking long enough.

Mr. CLARDY. Counsel discussed the point that was up, and a dozen other points also, aside from the one that was really up. I am not going to discuss those points here; I intend to discuss them on brief, where they ought to be discussed. But may I just point this out, on the merits of the thing—

Mr. BARKELL. Go ahead.

518 Mr. CLARDY. Here we have a case in which the contention is made that these companies are separate companies; that the truck company is not the same as the railroad company, and the railroad company is not the same as the truck company. Now, they come in and want to show an alleged saving in time, that they claim will accrue to the railroad; not to the shipping public, and not to anyone other than the carrier known as the railroad. My point is that since public convenience and necessity is the only issue involved, in presenting this kind of testimony, it is not competent to prove it by claiming that the carrier involved, whether it be a railroad company, or a common motor carrier, can prove public convenience and necessity by showing a saving to itself. If Mr. Yockey were attempting here to show that the public will get reduced rates, even that would not be competent, and it has been so held—that the mere fact that you are going to bring about a saving in rates does not prove public convenience and necessity. Therefore, for that additional reason, it is not competent to show that at all, because without having an opportunity now to dig up the decisions, I am sure that the Examiner, at least, will surely recall that the Commission has decided, and the courts have held, that proof that the rates offered by an applicant will be lower than those in effect, is not receivable as proof of public convenience and necessity—as by in-

519 direction here, they want to attempt to show something that is even less than that; because they are not even going to claim that the public will benefit by getting lower rates here. All that they are claiming is that the railroad will make more money by saving money that it would otherwise have spent. I contend, therefore, that on the merits of the thing, this evidence cannot prove anything, and is therefore neither material nor competent.

Mr. HARRY YOCKEY. Now, if the Joint Board please, may I just have one final word, very briefly, in answer to what Mr. Clardy has said?

Mr. BARKELL. Yes.

Mr. HARRY YOCKEY. We do not want anything in here for a moment, that we are not entitled to. I am saying to you very frankly, we have the authority for this, although we do not have all of it readily available just at this time. It is apparent that we are not going to be able to finish this case today. I do not want to ask you to do anything that I cannot very definitely back up, and I cannot do that, in the limited time that we have at our disposal right now. I thought I had those other cases with me, but I find that I have not. Now, then, if this case is going to be continued anyway, until tomorrow, or until some other day, whatever date it is continued to for further hearing, why, we would like to let these two specific subjects go until that time, and I will  
520 produce the law at that time, or else it will be my fault.

Mr. CLARDY. I would like to join in that request, your Honors, because I would like to produce some decisions on that last point particularly myself.

Mr. HARRY YOCKEY. That is fair enough. Then there will not be any delay or waste of time.

Mr. CLARDY. As a matter of fact, I would like to suggest that we both work up a brief between now and the time we resume. Perhaps we can save considerable argument by submitting a brief to you gentlemen.

Mr. BARKELL. Off the record.

(Discussion outside the record.)

Mr. BARKELL. Back on the record, Mr. Reporter. It is the opinion of the Joint Board that this testimony will be admitted, subject to the objections which have been interposed by opposing counsel. Let us continue with the case.

Mr. HARRY YOCKEY. In order to save further time in making objections, may it be understood, if the Board please, that the objection of protestants goes to the entire subject matter.

Mr. CLARDY. Yes; that is all right, but nevertheless I will want to raise specific objection to each question as we go along.

Mr. HARRY YOCKEY. All right. I just thought that we might possibly save some further time.

521 Mr. BARKELL. That is all right.

Mr. CLARDY. Because I want to be very sure that I am protected on the point, as to each question.

Mr. BARKELL. Is your witness here, Mr. Yockey?

Mr. HARRY YOCKEY. Yes, sir.

Mr. BARKELL. Let us continue, then.

Mr. HARRY YOCKEY. Mr. Christie.

E. M. CHRISTIE resumed:

Mr. CLARDY. If your Honors please, I think in due fairness to the Joint Board, I should say that the crux of my objection, as I

voiced it at the outset to the past decisions of the Commission, was based on the very fact that they have received and used as a basis for their decisions, this very kind of testimony, and I say that with regard to each of the orders that the Commission has made thus far, and that I intend to challenge in this proceeding.

Mr. BARKELL. All right. Then you will be starting all over again. Proceed with the witness, Mr. Yockey.

Direct examination (cont'd) by Mr. HARRY YOCKEY:

Q. Mr. Christie, you are the same Mr. E. M. Christie who has heretofore been sworn and testified in this matter on behalf of the applicant, are you?

A. Yes, sir.

Q. Now, the question was asked you as to whether or not in the service that you have described, there was any saving of time involved in the truck-rail movement, as against, or under the all-rail movement; to which you answered "Yes."

A. Yes.

Q. Then you were asked as to whether or not there would be any reduction in operating expenses to The Pennsylvania Railroad Company by reason of the rail-truck operation, and to that question you also answered "Yes."

A. That is correct.

Q. Now, then, the next question is—

Mr. CLARDY. Well, now—

By Mr. HARRY YOCKEY:

Q. Will you please enumerate—

Mr. CLARDY. I do not think he answered that question, although perhaps he did.

Mr. HARRY YOCKEY. Yes.

The WITNESS. Yes; I did.

By Mr. HARRY YOCKEY:

Q. In any event, Mr. Christie, if you did not answer that question before, what is your answer to the question now?

A. My answer is; yes.

Mr. CLARDY. Well, then; just to protect myself, I move to strike it out. I did not think the question had been answered.

The WITNESS. Yes.

Mr. HARRY YOCKEY. It was.

Mr. BARKELL. Your motion is to strike the answer?

Mr. CLARDY. Yes.

Mr. BARKELL. Denied.

Mr. CLARDY. And an exception.

**Mr. BARKELL.** It is understood that an exception automatically goes with every adverse ruling.

**Mr. CLARDY.** Thank you.

**By Mr. HARRY YOCKEY:**

**Q.** Now, Mr. Christie, will you please enumerate what the items of saving are to The Pennsylvania Railroad.

**Mr. CLARDY.** To which I object, on the grounds already stated.

**Mr. BARKELL.** Overruled.

**By Mr. HARRY YOCKEY:**

**Q.** Proceed.

**A.** There will be a saving in car-miles; there will be a saving in overtime; there will be a saving in locomotive expense; there will be a saving in the stowing of freight; there will be a saving in yard switching; and there will be a saving in second handling of freight.

**Q.** How about boxcars?

**A.** There will be a saving in boxcars used.

**Q.** How about engine expense?

**A.** There will be a saving in engine expense. I thought I had mentioned that.

**Q.** All right. Now, then, take those items up one by one, and explain first wherein the reduction of expense occurs in the case of the car miles.

**Mr. CLARDY.** To which I object.

**Mr. HARRY YOCKEY.** To save time, Mr. Clardy, why not let your objection go to all of this line of examination?

**Mr. CLARDY.** Well, that is all right. Where I do not want to voice any specific reason, I shall be glad to just have the objection go as noted; but I want the privilege of raising any specific additional reasons that I think necessary, as we go along.

**Mr. HARRY YOCKEY.** That is all right.

**Mr. BARKELL.** Objection overruled.

**A.** By handling this freight in trucks, we will eliminate over 61,000 car-miles per month on the Pennsylvania Railroad.

**By Mr. HARRY YOCKEY:**

**Q.** Now, then, you spoke of a saving in the use of boxcars.

**A.** Yes.

**Q.** Will you please explain wherein there will be such a reduction in expense, which occurs by the elimination of the use of boxcars?

**A.** By handling the freight in trucks, we will eliminate the use of approximately 860 boxcar-days per month.

Q. And what you are testifying to here, is covering these seven new routes; is that correct?

A. Yes.

Q. If these truck routes are established, there will be that saving to the railroad, will there?

A. Yes, sir; that is correct. This saving is all in connection with the seven new routes.

Q. All right. Now, will you explain what the saving to the railroad will be in the overtime of local freight trains?

A. We will eliminate the overtime of the local freight train that is required in the unloading of less than carload freight, which will make a saving in the amount of overtime paid.

Q. On the seven new routes?

A. Yes.

Q. That is where it will be?

A. Yes, sir.

Q. Now, then, next on the question of saving in yard-switching expense, will you explain what that is, or will be, on these seven new routes?

A. For each boxcar we eliminate, we will eliminate the necessity for switching that car in the yards, and thus we will eliminate the switching expense.

Q. So that there will be a saving in that regard over these seven new routes?

A. Yes, sir.

Q. All right. Now, wherein is the reduction in engine hours to the railroad? Will you please explain that?

A. For each overtime hour that the crew makes, there is an expense on the locomotive, for fuel, water, and lubricants; and this expense will be eliminated.

Q. And that will be a saving over these seven new routes also, will it?

A. Yes, sir.

Q. Now, with respect to the stowing expense: will you please explain wherein the saving is effected there?

A. By eliminating the loading of this freight into boxcars, we likewise eliminate the necessity for stowing the freight in the cars for safe riding, and that expense will be eliminated.

Q. Now, then, the next item is in connection with second handling of freight. Will you please explain that?

A. Well, in loading way-freight way-cars, we endeavor to load the freight in station order, and in doing that we put practically all of the freight, or the majority of it at any rate, on the platform, and segregate the freight in that manner until all of it is ready to load into the car, and then we load it in, in station order;



and by doing it in that manner it causes a second handling of the freight.

**Mr. HARRY YOCKEY.** That is all of the testimony, I think, on that particular subject. Now, then, next I would like to go to the other question, of the cause, or the reason or reasons as to why they desire a subsidiary truck line, rather than a nonsubsidiary truck line. Now, if the Board please, the witness did testify that they do prefer a subsidiary truck line to a nonsubsidiary truck line, and I then asked him why, and there was an objection raised to that, and that is the question that is pending. I have no authority for it, except the fact that we have done it in every one of the cases that we have been in. There never has been any objection to it, and the Commission has always admitted it, and I think that the same rule should apply here, or that is, I mean, the same procedure should apply here, and that it should be admitted over the objection.

**Mr. BARKELL.** It is the opinion of the Joint Board that that issue is not involved in this case, and therefore the objection is sustained.

**Mr. HARRY YOCKEY.** Well, now, if your Honor please, would you be good enough to hold your ruling, just hold your ruling in abeyance, to give me an opportunity to make an offer of proof.

**Mr. BARKELL.** I understood you to say that you were just making your offer of proof. I thought you said that you do not have any authority.

**Mr. HARRY YOCKEY.** No; your Honor, I did not say that, because I want to get the evidence in.

**Mr. CLARDY.** What he said was—

**Mr. EGG.** Just a moment.

**Mr. CLARDY.** —that he did not have any authority to support his contention.

**Mr. HARRY YOCKEY.** I stated, your Honor, that I do not have any decisions on the proposition; nothing except the authority of the other cases, where we have been permitted to introduce it.

**Mr. CLARDY.** Counsel is merely citing himself as the authority.

**Mr. HARRY YOCKEY.** Yes.

**Mr. BARKELL.** Let the record show, Mr. Reporter, that the ruling of the Board is withheld, to give Mr. Yockey an opportunity to make his offer of proof.

**Mr. HARRY YOCKEY.** Now, in order to get the record straight, I had better ask him regarding the reasons for the desire on the part of The Pennsylvania Railroad Company to use a nonsubsidiary truck line, rather than a subsidiary, as he has previously testified too.

By Mr. HARRY YOCKEY:

Q. What are those reasons?

Mr. ANDERSON. Just a moment, please. To which we object your Honors.

Mr. HARRY YOCKEY. All right.

Mr. ANDERSON. For the reasons that have been heretofore stated on the record.

Mr. HARRY YOCKEY. To get the record straight, if the Board please, we offer to prove by this witness that the reasons why The Pennsylvania Railroad Company desires to employ The Willett Company of Indiana, Inc., a subsidiary, to perform this service over the seven new routes involved here, are as follows: First,

The Pennsylvania Railroad has already employed The  
529 Willett Company in other service of this type, over the 25 routes heretofore referred to, and The Willett Company is satisfactorily performing this same service over those 25 routes, in operations in Indiana, Illinois, and Kentucky. Second, The Pennsylvania Railroad prefers to have this service over the entire 32 routes, performed by one truck line subsidiary, rather than by two or more truck lines. Third, we prefer for many reasons, to employ our subsidiary, The Willett Company of Indiana, to perform this service for us over the 32 routes. Fourth, we prefer The Willett Company of Indiana for the reason that The Willett Company of Indiana, Inc., as a subsidiary of the railroad company, has a complete understanding of the entire problem involved, from the standpoint of coordinating this rail-truck service. Fifth, The Pennsylvania Railroad Company desires a unified service, by using one company over all of the routes, and using The Willett Company of Indiana, Inc., for that company. Sixth, The Pennsylvania Railroad Company desires The Willett Company of Indiana, Inc., to perform this service, because no one independent trucker, as far as it knows, can serve all of the points on all of the 32 routes, in all of the states where the service is used and needed under the present application. Seventh, we desire The Willett Company of Indiana to perform this service because The Willett Company's drivers are specially trained and qualified for this type of service. Eighth, it is the

desire of The Pennsylvania Railroad Company to have  
530 The Willett Company of Indiana, Inc., perform this service, because of the fact, as we will show, that it is necessary for the drivers of trucks at times to enter and leave the freight stations of The Pennsylvania Railroad at hours when the freight stations are closed; and The Pennsylvania Railroad Company believes that The Willett Company is better able to serve the railroad, in performing this service, by its employees, the em-

ployees of The Willett Company, because the railroad company is willing to turn over to the drivers of The Willett Company the keys to the various freight stations. Ninth, because The Pennsylvania Railroad Company, in its present operations with The Willett Company, has had no thefts or losses, by reason of the employees of The Willett Company of Indiana. Tenth, because The Willett Company of Indiana, Inc., is financially responsible, and able to take care of all of the various 32 routes. Eleventh, because there is a certainty of The Willett Company of Indiana, Inc., maintaining its equipment in first-class condition; there is a certainty of the payment of claims by The Willett Company, a subsidiary; there is a certainty that its own subsidiary will make the route schedules to meet the requirements of The Pennsylvania Railroad, and that it will continue to do so, no matter what the change may be in the freight-train service of The Pennsylvania Railroad; and because the railroad knows that its subsidiary will make such changes as may be required, to fit in with the service of The Pennsylvania Railroad.

Twelfth, because The Willett Company is hauling for The  
 531 Pennsylvania Railroad Company only, and there is no interference in the service by reason of The Willett Company being compelled to meet the demands or wishes of independent patrons. Thirteenth, because The Willett Company of Indiana, Inc., is not a competitor of the railroad in any sense; and The Pennsylvania Railroad is unwilling to have its freight handled by so-called competitors, or truck lines that consider themselves as competitors, that operate along the line of the railroad. The Pennsylvania Railroad believes that these independent operators will not be as well qualified as the drivers of The Willett Company to learn and retain the names and addresses of the consignors and consignees of the railroad, and become familiar with the type, kind, and volume of their shipments. Fourteenth, the railroad company desires of its subsidiary company the exclusive use of the vehicles involved, and The Willett Company gives this type of service. The railroad does not desire its freight to be combined or mixed with that of other shippers. Fifteenth, and lastly, because the railroad company feels that it can depend on this particular subsidiary to perform the service properly; that The Willett Company will not quit the service of The Pennsylvania Railroad Company overnight; but that at all times the railroad company will be in a position to have a complete service, the complete flow of service which it desires in this rail-truck operation. That, if the Joint Board please, is my offer of proof.

532 Mr. CLARKE: To which we renew each and all of our objections. As to our additional reasons, in support of our

objections, we will treat of them in the brief. There are a number of incongruous statements in what Mr. Yockey has said, that we want to point out at the proper time.

Mr. BARKELL. The objection is sustained.

Mr. HARRY YOCKEY. Well, now then, if the Board please, with those two subjects out of the way, I have only one other line of inquiry that I would like to address to Mr. Christie before I turn him over for cross-examination.

Mr. BARKELL. Pardon me, Mr. Yockey. Did I understand you to say that you are through with the witness on direct?

Mr. CLARDY. No. He says he has some further direct.

Mr. BARKELL. Oh.

Mr. HARRY YOCKEY. Yes.

Mr. BARKELL. Go ahead.

By Mr. HARRY YOCKEY:

Q. Mr. Christie, I direct your attention now to applicant's exhibit No. 4. I believe you testified that you had something to do with the making of these schedules.

A. I made them.

Q. You made them yourself?

A. Yes, sir.

Q. Now, is there any connection between the schedules that are set up in applicant's exhibit No. 4 here, and the arrival or departure times of the Pennsylvania Railroad trains?

533 A. Yes, sir; these schedules are based principally on the arrival and departure times of the trains.

Mr. CLARDY. Just a moment, please. May I hear that answer again, Mr. Reporter?

(Answer read.)

By Mr. HARRY YOCKEY:

Q. Now, Mr. Christie, was there any attempt to make these schedules up on any other basis than that?

A. The schedules were based—or made up on the basis of connecting with each other at certain times, and at other times to connect with the trains; so in preparing these schedules we used the connection of the trucks or the trains wherever we desired that they be connected.

Q. Well, now, let me ask you this question, Mr. Christie: is this an inflexible schedule which you intend to operate on at all times, and be bound by under any and all circumstances?

A. That is the schedule that we propose at this time to put into use, if this application is granted; but at any time we feel we can better serve the patrons of the railroad by changing the schedule, we will change it.

Q. So that there is nothing permanent about this schedule, then?

A. No.

Q. It is only a tentative one that you have arranged at this time; is that correct?

A. Correct.

534 Q. Well, now then, it is the desire and the requirement of the railroad that these trucks be operated on these schedules to serve the needs of the railroad, is it?

A. Yes, sir; it is our desire that these schedules be put into effect by The Willett Company, because they will serve the needs of the Pennsylvania Railroad.

Q. Now, then, if these particular schedules are put into effect, and these trucks are operated on these particular schedules in conjunction with the present railroad schedules, will the service that you have spoken of and described in your testimony be expedited on each and every one of these routes?

A. Yes, sir.

Q. And will there be an expedition of 24 hours in the service on every one of these seven routes—that is, by the use of these schedules?

A. There will be an expedition of 24 hours or more; yes, sir.

Q. 24 hours or more.

A. Yes.

Mr. HARRY YOCKEY. That is all I have with this witness, on direct, your Honors.

Mr. BARKELL. Cross-examine.

Cross-examination by Mr. ANDERSON:

Q. Mr. Christie, I believe you have testified that you are a director of The Willett Company. Is that correct?

535 A. No.

Q. You are not officially connected, then, with The Willett Company, are you?

A. I am not connected in any way with The Willett Company of Indiana; no, sir.

Q. You are merely supervising agent of The Pennsylvania Railroad?

A. Yes.

Q. On special duty.

A. Yes, sir.

Q. Your special duty, however, has been an assignment to the affairs of The Willett Company for several years, has it not?

A. It has been an assignment not only to The Willett Company, but to other trucking interests in an effort to utilize motor-



truck operation to better serve the patrons of The Pennsylvania Railroad.

Q. And you also render service to the railroad in connection with The Pennsylvania Truck Lines, do you not?

A. Yes.

Mr. ANDERSON. Now, Mr. Yockey, I had intended to ask the witness about what is shown on applicant's exhibit No 3 here, but I can avoid that inasmuch as you have agreed to supply another exhibit.

Mr. HARRY YOCKEY. That is true, but I have not had time, up to this point, to do that.

336 Mr. ANDERSON. That is all right. I understand you can give it to us later, so that we will have it when we resume the hearing.

\* Mr. HARRY YOCKEY. I will do that.

Mr. ANDERSON. Therefore, I will pass that at this time.

Mr. Mr. ANDERSON :

Q. Now, Mr. Christie, you have testified here about a so-called station-to-station truck service. Just what did you mean by that?

A. I meant that they haul freight—that is, that The Willett Company of Indiana hauls freight for The Pennsylvania Railroad from station to station.

Q. Well, now, when you say from station to station, you mean, from city to city, do you not?

A. Yes, sir; from the Pennsylvania Railroad station in one city, to the Pennsylvania Railroad station in another city.

Q. Now, you do not mean to say to this Joint Board and Examiner, do you, Mr. Christie, that if this authority is granted, as prayed for in this application, without the "prior and subsequent rail movement" clause in it, The Willett Company of Indiana will at all times, and under all circumstances, haul all of the freight that it hauls from a Pennsylvania Railroad station to a Pennsylvania Railroad station?

A. No, sir.

Q. No.

537 A. I mean to say this; that The Willett Company on this proposed route—or on these proposed routes, will haul this freight from station to station. Now, up to the present time there has been nothing considered by The Pennsylvania Railroad, or any consultation with The Willett Company, as to any pickup and delivery service that might be performed at any point along the route; nor do we have anything in mind, with respect to pickup and delivery service along the route by the over-the-road-trucks. I am talking now about the over-the-road trucks, you understand. Now, it may be, however, at some future pe-

riod, that there will be a little town along there somewhere as to which we will say to The Willett Company, "Now, we want you to deliver freight and pick up freight in that little town"; but never have we, along any of our routes, asked The Willett Company to pick up or deliver freight in a city or town of any consequence, with its road haul trucks, because if we do that, we are breaking down the schedules, and we might not be able to give the service that the operation is intended to give.

Q. Yes; I appreciate that, but you were present here and heard the testimony along that line, that we endeavored to get from Mr. McArdle yesterday, did you not?

A. I heard most of it, I think.

Q. Yes. Now, while I liked your speech, it still does not answer my question, so I am still going to persist in trying to get an answer to my question.

A. Well, I am sorry—

538 Q. Now, listen, Mr. Christie, I am not interested in your confining your answer to over-the-road trucks, and that is out of any question that I am going to ask you about that.

A. All right.

Q. You understand that, do you?

A. Yes.

Q. I am not talking at all about the over-the-road trucks. I am not interested now in anything except the very question itself that I ask you; and I am going to ask that the question be read by the Reporter, and after it has been read, I am going to ask you to answer the question.

Mr. HARRY YOCKEY. Oh, now, if the Board please, I submit that counsel is going beyond anything that is involved here. What he is talking about now is beyond the scope of anything that we are asking for in this application.

Mr. ANDERSON. Not at all. I am talking about the movement of freight by The Willett Company. I do not care whether it is in over-the-road trucks or some other kind.

Mr. HARRY YOCKEY. Furthermore, I submit that the witness has fully answered the question.

Mr. BARKELL. Read the question, please, Mr. Reporter.

(Question read.)

Mr. HARRY YOCKEY. Now, I submit, your Honor, that the witness answered the question.

Mr. BARKELL. Let us hear the answer again, please, Mr. 539 Reporter.

Mr. ANDERSON. That question can be answered yes or no.

Mr. HARRY YOCKEY. Well, bearing in mind—

Mr. ANDERSON. Pardon me. He can explain his answer if he wants to do so, but I first want a yes or no answer.

Mr. HARRY YOCKEY. Bearing in mind that it goes to what is sought in this application—

Mr. ANDERSON. I am not talking about what they have done over the 25 routes that have been referred to here. I am not talking about that.

Mr. HARRY YOCKEY. Well, to save time, go ahead.

The WITNESS. I think, if you will have my answer read, you will see that the answer I made to the question was "No."

By Mr. CLARDY:

Q. Is your answer "No," Witness?

A. Read it.

By Mr. ANDERSON:

Q. Is your answer to my question, then, "No," Mr. Witness?

A. With the explanation—

Q. No. Pardon me, now. First, I want a yes or no answer to my question.

A. I gave—

Q. And then, if you want to explain your answer further, you have the privilege of doing so.

A. I have given you a "No" answer.

Q. What is your answer, now, to the question?

540 A. Read the answer.

Mr. ANDERSON. Read the question.

Mr. BARKELL. Now, just a moment, gentlemen. Let us proceed in an orderly manner.

541 It ought not to be necessary for us to have these questions read and reread a half a dozen times, or the answers either. A good deal of the time that is utterly unnecessary. We spent a very great amount of time yesterday doing that very thing, and we hoped that we would be able to avoid getting into that same situation today. We will strike the present answer from the record, and you may read the question once more, Mr. Reporter, and the witness may answer the question.

The WITNESS. Well, to save time, I will answer it by saying "No."

Mr. HARRY YOCKEY. Just a moment, Mr. Christie. Let us abide by the ruling of the Chairman. Let the question be read again.

(Question read.)

A. No, sir. There will be certain small stations—that is there will probably be certain small stations along this route at which we will ask the Willett Company to perform pick-up and delivery service for us; but the over-the-road trucks that are used in this

station-to-station service, will not perform any pick-up and delivery service at any of the larger points.

Mr. BARKELL Proceed, Mr. Anderson.

By Mr. ANDERSON:

Q. Do you know, Mr. Christie, of any common carrier, common motor carrier that operates over-the-road trucks of the kind that they operate, that The Willett Company operates, at the  
542 present time, and uses them in city pick-up and delivery service?

A. I have heard of such instances.

Q. You have heard of them?

A. Many times.

Q. But you are familiar enough with the trucking business, from your close contact with The Willett Company and The Pennsylvania Truck Lines, to know that, for instance, the Darling Trucking Company, one of the protestants here, operating over part of this route that you are talking about, uses certain trucks for over-the-road service, are you not?

A. I don't know.

Q. And then it has other trucks, smaller trucks, for city pickup and delivery service.

A. I don't know that; no, sir; but I understand that in many instances the over-the-road trucks that are used by common or contract carrier truck lines, also deliver large shipments; they deliver large shipments with those over-the-road trucks.

Q. Have you been in close contact with any of the larger and better-manned common carriers within the last three years, say?

A. Well, this, of course, is not of my own personal knowledge, you see.

Q. Oh.

A. It is simply hearsay, where the trucks come in, and they use those particular trucks to deliver freight.

Q. Well, now, The Willett Company of Indiana has city  
543 pickup and delivery trucks, has it not?

A. Yes.

Q. How many?

A. I don't know.

Q. But you know they have them?

A. Yes, sir.

Q. And they use them?

A. Yes.

Q. But they do not use them for over-the-road service, do they?

A. No.

Q. All right. Now, The Pennsylvania Railroad maintains solicitors, to solicit business, does it not?

A. Yes.

Q. It always has?

A. Yes.

Q. And always will, I assume.

A. I would assume so.

Q. The Pennsylvania Railroad maintains a solicitor at Fort Wayne, I assume, does it not?

A. Yes.

Q. And that solicitor will solicit business, and does solicit business at Fort Wayne from all of the big shippers, does he not?

A. Yes.

Q. There is no class or kind of shipper that is excluded from his solicitation, as a matter of fact, is there?

A. No; he solicits from all shippers.

Q. Yes.

A. Small and large.

Q. The Pennsylvania Railroad will accept freight from all who offer it, does it not?

A. Oh, yes.

Q. In other words, you are strictly a common carrier.

A. Yes.

Q. Now if this service should be authorized, if this authority should be granted to The Willett Company, that solicitor, John Jones, in Fort Wayne, soliciting freight for and being paid by The Pennsylvania Railroad Company, will be soliciting freight at Fort Wayne for movement by The Willett Company, wholly on trucks of The Willett Company, in interstate commerce, consigned to points along the route, will he not?

A. I would say, the answer to that question is "No," because you said in your question that that solicitor would be soliciting freight at Fort Wayne for movement on the trucks of The Willett Company.

Q. Yes.

A. He will be soliciting freight for movement on The Pennsylvania Railroad, which we will turn over, in a great many instances, to Willett trucks.

Mr. ANDERSON. Well, now, again, if the Board please, I insist that that is an evasion of a direct answer to my question.

Exam. HARRISON. I think the witness has answered the question, Mr. Anderson.

Mr. ANDERSON. No.

Mr. HARRY YOCKEY. I think so too. You are trying to get him to say that he is soliciting for The Willett Company.

Mr. ANDERSON. No.



Mr. HARRY YOCKEY. And he is answering "No" to that question. Mr. ANDERSON. No, I did not ask him about soliciting for The Willett Company at all.

Exam. HARRISON. What was the question again, then?

By Mr. ANDERSON:

Q. The question is this: That man, that solicitor we have been talking about, will solicit freight for The Pennsylvania Railroad Company, will he not?

A. Yes.

Q. And that freight will move on a bill of lading of The Pennsylvania Railroad, will it not?

A. Yes.

Q. But not one pound of some of it, at least, consigned to certain points there, as you have explained, will ever move, in a Pennsylvania Railroad freight car, will it?

A. That is correct.

Q. In a movement from Kalamazoo—or rather, between Kalamazoo and Fort Wayne, if it is less than carload, however  
546 much there is of it, that freight will be moved by a Willett truck, will it not?

A. No.

Q. When would any of it move by rail?

A. Every day.

Q. Just so much as you want to load in a car; is that correct?

A. No, sir. We have sufficient tonnage every day to make a car from Fort Wayne to Kalamazoo, and from Kalamazoo to Fort Wayne; and we will do it. However, there may be times when we will send some of the freight on a Willett truck. For instance, if a shipment of freight is received in the morning, prior to the departure of the Willett truck, that shipment will move on the Willett truck.

Q. Well, now, you have stated in your testimony here that the purpose of this application was to get authority to send your less-than-carload freight via Willett truck, have you not?

A. I don't think I said: All of the less-than-carload freight.

Q. All right. Then it will not be all of it?

A. No, sir, it will not. We will have the right, under this application, if it is granted, to haul freight from Fort Wayne to Kalamazoo by truck, and we will haul some of it that way; but the volume of freight is so much, so great, that it will have to go in a car also.

Q. Some of it.

547 A. Yes, sir; we will handle some of freight that way.

Q. Yes. And that is what you are asking for.

A. Yes.

Q. And you want to handle some of it the other way.

A. Yes.

Q. And that is the reason you are asking here for that.

A. Yes.

Q. So that some of it will be handled direct from the door of the consignor, to the door of the consignee, will it not?

A. (No answer.)

Q. I mean, I did not intend to make any suggestion. I was merely asking you a question.

Mr. HARRY YOCKEY. Well, now, I object to that question, if the Board please. Counsel is again getting into the question of pick-up and delivery service.

Mr. ANDERSON. No.

Mr. HARRY YOCKEY. Why should we take the time to go into that question?

Mr. ANDERSON. I will tell you why—

The WITNESS. I will answer it.

Mr. BARKELL. All right; go ahead and answer the question.

A. Yes, sir; some of it will be from the door of the consignor, or the shipper, to the door of the consignee, or receiver, but not by Willett truck.

548

By Mr. ANDERSON:

Q. By what kind of a truck will it be handled, or will it move, then?

A. Well, I just cannot tell you at this moment who is delivering the freight for us in Kalamazoo. I do not know the name.

Q. When you say that it will not be handled by a Willett truck, do you mean that it will be handled by some local agent there—

A. Yes.

Q. —or some local cartage company?

A. Yes.

Q. That is serving The Willett Company?

A. Yes.

Q. At least, it will not move in a rail car.

A. That is right. We will pick up the freight in Fort Wayne, from the door of the shipper, provided it is within the terms of our pick-up and delivery tariff.

Q. Yes.

A. And we will possibly truck the freight over to Willett in Fort Wayne, and then we will deliver it at Kalamazoo.

Q. Well, now, who pays for the service of the local cartage man; who pays him?

A. The Pennsylvania Railroad.

Mr. BARKELL. Now, Mr. Witness, I wonder if it is necessary for you to elaborate as you have been doing, in all of your answers to these questions.

The WITNESS. Well, I want to make my answers clear.

549 Mr. BARKELL. Well, I am just wondering if it is necessary for the purpose of this record? o

The WITNESS. I would like——

Mr. BARKELL. It is consuming a good deal of time.

The WITNESS. I would like to answer these questions directly, but the questions are such that they might have a tendency to make you believe that all of this is a fact, when it is not a fact.

Mr. ANDERSON. No——

The WITNESS. And that is why I would like to elaborate a little bit, just so I am sure that the record is clear.

Mr. ANDERSON. No, your Honor——

Mr. HARRY YOCKEY. It seemed to me, your Honor, that the witness was doing his best to answer the questions directly.

Mr. EGGERS. I think a good deal of what the witness has been saying should more properly be developed on redirect examination.

Mr. HARRY YOCKEY. The questions, if your Honor please, go first to The Pennsylvania Railroad Company, and then to The Willett Company, first in one instance, and then in the other, and the witness has got to explain, to keep the record clear.

Mr. ANDERSON. All right. I will try and make my questions even more definite and specific, if that is possible. I thought I was doing that, but——

550 Mr. HARRY YOCKEY. In other words, the evidence which goes to The Pennsylvania Railroad Company, the witness wants to be sure the record indicates goes to The Pennsylvania Railroad Company, and that is why he has to specify, and make some of these explanations.

Mr. BARKELL. Well, we will ask you, Mr. Witness, to answer the questions yes or no, whenever that can be done.

The WITNESS. All right, sir.

Mr. CLARDY. I would like to say amen to that, your Honor, because when I get to him, I do not want to have him arguing with me as he has been here.

Mr. HARRY YOCKEY. I submit that the witness has not been doing anything of the kind. Ask the questions, and he will answer them.

By Mr. ANDERSON:

Q. Now, Mr. Witness, when you talk about all of it, I am not concerned with that, and I am not asking about that. The point

flowing over this route on Willett trucks from point to point, is only that freight which you ask for authority to haul by Willett truck—and when I say “you” I mean, of course, The Willett Company, the applicant in this proceeding, in the first instance—is it not?

A. Repeat that.

Mr. ANDERSON. Read it, please.

(Question read.)

551 The WITNESS. I am sorry, but I still do not understand that question.

Mr. ANDERSON. Well, all right, then. I will restate it, and try to clarify it for you.

The WITNESS. Yes.

By Mr. ANDERSON:

Q. You seem to have been confused, Mr. Witness, or perhaps I have confused you into thinking that I was talking about all of it, all of the freight, and I am not. But is it not true that some of the freight, whatever amount it may be, that moves between the two points, let us say again, of Fort Wayne and Kalamazoo by Willett truck, is that part of the freight moving between those two points that The Pennsylvania Railroad had in mind, that it wanted to move by truck, when it asked The Willett Company to file this application?

A. That is correct.

Q. All right. And the same thing would be true also of Fort Wayne and Sturgis, Michigan, would it not?

A. Yes.

Q. Now, is it not true that all common carriers by motor vehicle use local agents, and do not use their own trucks for local pick-up and delivery service?

A. I don't know.

Q. You know that many of them do, do you not?

A. No.

Q. You do not?

552 A. No, sir. That is, I assume they do.

Q. All right.

A. But I don't know.

Q. The Willett Company does not differ from any other common carrier by motor vehicle, in saying, “Well, actually, The Willett Company will not do any pick-up and delivery service, because we employ a local agent,” does it?

A. (No answer.)

Q. Do you consider it peculiar to The Willett Company to do that?

A. No, sir; The Willett Company does not hold itself out to haul for the general public.

MR. BARKELL. Read that last answer, please, Mr. Reporter. (Answer read.)

MR. ANDERSON. I move to strike out the answer. I did not ask him anything about that. Answer the question, please.

By MR. ANDERSON:

Q. Do you consider that peculiar to The Willett Company

A. (No answer.)

Q. I mean, Mr. Witness, is there something different about that, than there is about any other trucking company?

A. Why, I would say, if I understand your question correctly, so far as the delivery of the freight is concerned, that is, as to who it is delivered by, there is nothing different practically from the way any other trucking company would deliver it.

Q. All right.

553 A. Exactly.

Q. In other words, then, the fact that the company, The Willett Company, uses a local cartage company to do the pick-up and delivery work, is not—

MR. HARRY YOCKEY. Now, just a moment. I want to object, if the Board please. There is nothing in this record to indicate that The Willett Company employs any cartage company—

MR. ANDERSON. He has just said that they do.

MR. HARRY YOCKEY. No.

THE WITNESS. No, sir.

MR. HARRY YOCKEY. It is the railroad.

MR. ANDERSON. That is not what he said.

MR. HARRY YOCKEY. You do not know what you are talking about.

MR. ANDERSON. Well, I do not know that we need that observation on the record. It may be that I am confused as between The Pennsylvania Railroad Company and The Willett Company, because of the way those names have been used interchangeably all through this hearing.

EXAM. HARRISON. Now, gentlemen, let us not have any more of these exchanges between counsel. If you have an objection to make, address it to the Joint Board, and it will be ruled on.

MR. ANDERSON. All right.

By MR. ANDERSON:

Q. Now, Mr. Witness, are there any peculiar or distinctive characteristics about this arrangement that you  
554 have been talking about here; and for which you are asking for authority here, merely because The Pennsylvania



Railroad employs local cartage companies to render pick-up and delivery service at certain points?

A. I would say "No," to that question, as far as the pick-up and delivery is concerned, but the freight is different, because it is railroad freight that they are hauling. The freight is different—

Q. All right.

A. —but so far as the local pick-up and delivery is concerned—

Mr. ANDERSON. Now, just a moment, Mr. Witness. You have answered the question, and for the purpose of my question no further explanation is necessary. Your answer is, then, it is not distinctive in that particular, is it?

A. Right.

Q. All right. Now, getting back to the statement you just made, which has been made pretty much throughout this hearing, that it will only haul—and by "it" I mean The Willett Company—that The Willett Company only proposes to haul for The Pennsylvania Railroad: I will ask you to explain to the Joint Board why you say that, and why you yourself think it is true, even, when The Pennsylvania Railroad is going to solicit business from every single shipper who has any to solicit, doing business at any point along this route.

555 A. For the reason that any freight which is hauled by The Willett Company will be handled on Pennsylvania Railroad bills—on Pennsylvania Railroad tariffs, and Pennsylvania Railroad bills of lading. They will be responsible for it, and for that reason I would say that the operation of The Willett Company is different from any common carrier truck company.

Q. And your answer, then, is that that is the reason, and the only reason, that you say they are only hauling for The Pennsylvania Railroad; is that correct?

A. I don't just get that question. You have asked me for the difference—

Q. No. I asked you if that is the reason for your saying that it is only hauling for The Pennsylvania Railroad. That was my question.

A. You asked me to explain it.

Q. I did not ask you anything of the kind.

Mr. HARRY YOCKEY, Counsel asked as to your answer, Mr. Christie.

By Mr. ANDERSON:

Q. I asked you why you say it is true that they are only hauling for The Pennsylvania Railroad. Now, I submit, the record will show that is the question that I asked.

A. Read the question, please.

Q. (Question read.)

The WITNESS. Will you go back and read those other questions and answers also?

556 (The record was read.)

The WITNESS. I told you that The Willett Company is only going to haul for The Pennsylvania Railroad. I answered that question.

Mr. BARKELL. That is right.

Mr. ANDERSON. That may be true; but then, I asked you another question. I asked you the further question: "Is that your only reason?"

The WITNESS. Well, it is the only reason that I can think of right now. There may be different reasons, but I don't know.

Mr. ANDERSON. All right. I think that goes to the whole thing.

By Mr. ANDERSON:

Q. In other words, because The Willett Company freight will move on a waybill of The Pennsylvania Railroad, or on a freight bill or a bill of lading of The Pennsylvania Railroad, and moves on order of The Pennsylvania Railroad, and was solicited by an agent of the Pennsylvania Railroad, then it is handling only Pennsylvania Railroad freight, and that is the only reason that you can think of, is it?

Mr. HARRY YOCKEY. Well, now, just a moment. I object to that question as argumentative, your Honors.

Mr. BARKELL. I think that question is rather confused, Mr. Anderson.

Mr. ANDERSON. All right. I will go back to my other  
557 question, then, your Honor.

By Mr. ANDERSON:

Q. Mr. Witness, can you think of any other reason?

A. Not right now.

Q. There is no limit to the number of trucks which The Willett Company may put on in this service, is there, any more than in any other common carrier service?

A. No.

Q. No. Now, I direct your attention, Mr. Witness, to applicant's Exhibit No. 6. Do you have a copy of that exhibit before you?

A. Yes.

Q. You testified in that connection as to savings that might be effected by the rail-truck movement, meaning The Pennsylvania Railroad and The Willett Company, between certain points, and from certain points to certain points; and I will ask you now to

state if that same saving could not be effected, or if approximately the same saving in time could not be effected by The Pennsylvania Railroad interlining and transferring its freight at the break point shown there, to other authorized common motor carriers operating over the same route as you are proposing to operate over here?

Mr. HARRY YOCKEY. Just a moment. I object to that as not being involved in this particular issue. The Interstate Commerce

Commission has held that it does not have any jurisdiction  
558 to require the entering into of a relationship with truck lines, and that question is not involved in this case.

Mr. BARKELL. I do not think that was the question, Mr. Yockel. Counsel said: "Could the saving be made if they entered into an arrangement with some common carrier."

Mr. HARRY YOCKEY. With other common carriers?

Mr. BARKELL. Yes.

Mr. ANDERSON. That is right.

Mr. HARRY YOCKEY. Other than with The Willett Company?

Mr. ANDERSON. Yes.

Mr. HARRY YOCKEY. Or a subsidiary?

Mr. ANDERSON. Yes.

Mr. BARKELL. The objection is overruled, and the witness may answer the question.

Mr. ANDERSON. That is exactly the question.

Mr. HARRY YOCKEY. I still submit: if the Board please, that the Commission has no jurisdiction to go into that question.

Mr. ANDERSON. Why, of course, the Commission has jurisdiction to go into it.

Mr. BARKELL. Let us not get into any further argument between counsel, gentlemen.

Mr. ANDERSON. The Board has ruled.

Mr. HARRY YOCKEY. Yes; it has ruled.

Mr. CLARDY. What is the ruling, your Honor?

Mr. BARKELL. The objection is overruled. Let us proceed.

559 By Mr. ANDERSON:

Q. Now, will you answer the question.

A. Repeat the question.

Mr. ANDERSON. Read it, please.

(Question read.)

A. I don't know. The question is such that I don't want to answer it, or try to answer it, any other way than what I have. I don't know what we could do, because I haven't investigated into it.

By Mr. ANDERSON:

Q. All right. Assume, then, that O. I. M. Transit Corporation is operating at the present time, as it is, regularly, daily, an

authorized, certificated service between Fort Wayne, Indiana, and Kalamazoo, Michigan, and that that company has trucks leaving Fort Wayne three times during the period of 24 hours, in the early morning, evening, and at midnight, and that that line would, if you wanted them to, interline with you and exchange freight. Now, my question is, if that is true, could not the same saving be effected by interlining with O. I. M. Transit Corporation at Fort Wayne, that could be effected by using The Willett Company at Fort Wayne for the Kalamazoo freight?

A. What do you mean by "interlining"? I want to be sure I understand what you mean, before I try to answer.

Q. Well, I am not so sure that I am familiar with it either. But what I have in mind is, transferring, by participating in the same tariff; the transfer of freight to a connecting line under a participating tariff.

A. We will not do it.

Q. I did not ask you that.

A. Then the saving in time cannot be made, because we will not be a party to any situation of that sort.

Q. Well, now, that is not any answer to my question. I will ask you to answer the question.

Mr. HARRY YOCKEY. May I just quote your Honors one sentence from that case on the question of jurisdiction?

Mr. BARKELL. That has been ruled on.

Mr. HARRY YOCKEY. Pardon me?

Mr. BARKELL. That has been ruled on.

Mr. HARRY YOCKEY. Well, what I have stated is the law.

Mr. ANDERSON. It is not the law at all. We will deal with that in our brief, or go into it right now if the Joint Board wants.

By Mr. ANDERSON:

Q. Now, Mr. Witness, I would like to have you answer my question.

Mr. BARKELL. Let us proceed, gentlemen. The witness may answer the question..

By Mr. HARRY YOCKEY:

Q. Do you understand the question?

A. Why, I think I understand it, yes, sir; but if I answer it, and then find that I didn't understand it, it will be held against me.

Mr. BARKELL. Counsel is still asking you that same question, and you may proceed to answer it if you can.

A. Well, I would like to answer the question in this way: In the first place, I do not know that they have got the right to do it—

By Mr. ANDERSON:

Q. Now, I did not ask you anything about that, Mr. Witness. I said, assuming that they have the right.

A. Well, let me finish.

Q. No. I want you to answer the question. I will not stand for any more argument.

A. All right.

Q. I want an answer to my question.

A. Well, then, assuming that they have the right to do that and assuming further that they would perform the service in the same manner that The Willett Company will—

Q. Assuming what?

A. Sir?

Q. What was that last?

A. I say, assuming further that they will perform the service in the same manner that The Willett Company will, then it could be; yes.

Q. The same saving in time would be effected?

A. It could be; yes.

Mr. ANDERSON. That is all.

Mr. MOBERLY. I have just a few questions, your Honor.

562 Mr. BARKELL. Just a moment, please. Before proceeding any further, gentlemen, may I make the request of all counsel that they endeavor to frame their questions so that it will not be necessary to get into an argument with the witness about the answer, and then have the answer read, and then have the question read, and consume a lot of time unnecessarily, the way we were doing here yesterday.

Mr. CLARDY. I will assure you that I will try to frame my questions so that they will permit a yes-or-no answer.

The WITNESS. I would like to say, I think that a lot of these questions have just simply put the witness behind the 8-ball.

Mr. ANDERSON. There is just one further question if the Board please, on this point that just came in right along this same line, and that is this.

By Mr. ANDERSON:

Q. Mr. Christie, have you made any study at all with respect to what might be done, or what saving in time might be effected by interlining, as I said, or transferring freight under participating tariffs, with other authorized certificated common carriers?

A. None whatever; no, sir.

Q. All right.

A. We are not interested in that.

Q. But you say, you have not;

A. No.



Q. Because you are not interested.

563 A. No.

Mr. ANDERSON. That is all.

Mr. BARKELL. Mr. Moberly?

Mr. MOBERLY. Yes.

By Mr. MOBERLY:

Q. Mr. Christie, apparently there has been some confusion in the record here, because of the attorneys for protestants, at least, using the pronoun "they" rather indiscriminately, when referring to The Willett Company and to The Pennsylvania Railroad Company. Now, The Pennsylvania Railroad views its own organization, and that of The Willett Company, as two distinct entities, two distinct organizations, does it not?

A. Yes.

Q. And the operations are two distinct operations in your view, are they not?

A. Yes.

Q. That is, in the view of The Pennsylvania Railroad?

A. Yes, sir.

Q. Now; when, on your direct examination by your counsel here, Mr. Yockey, you made the statement referring to the service that is to be offered, or that is to be rendered by The Willett Company as being supplemental to the rail service, you meant by that, did you not, that the operations to be conducted by The Willett Company will be conducted between points which are at the present time served, and which will continue to be served by The Pennsylvania Railroad? That is correct, is it not?

564

A. Yes.

Q. Then there will be no actual substitution of service, will there?

A. Yes, sir; there will be a substitution, and a supplemental service, I would say.

Q. Well, the railroad will continue its operations, and The Willett Company will engage in such operations over those routes as may be necessitated by whatever freight The Pennsylvania Railroad will turn over to The Willett Company; is that correct?

A. The Pennsylvania Railroad will still haul freight to any of these points, whenever it is required to haul freight by rail to any of these points that The Willett Company will serve on these proposed routes. Now, The Willett Company will serve those points for The Pennsylvania Railroad; and The Pennsylvania Railroad will serve them direct.

Q. And The Pennsylvania Railroad, then, will continue to operate those local freight trains, even though the service of The Willett Company is instituted; is that correct?

A. The Pennsylvania Railroad will continue to operate the local freight trains; yes, sir; but it will discontinue the operation of the peddler car, or way-car on the local freight trains, and that will only be used if and when necessary.

Q. Well, then, following your previous statement, that the operations of The Pennsylvania Railroad are separate and distinct from the operations of The Willett Company, and vice versa, there will be an additional operation in the field over the routes proposed, if this application is granted; that is true, is it not?

A. Well, I will answer that—

Q. Well, now, Mr. Christie, that question can be answered yes or no, I suggest.

A. No, sir; that question cannot be answered by a yes-or-no answer, for this reason, that you do not understand—

Mr. MOBERLY. Now, if the Joint Board please, I submit that my question is very clear and understandable, and I submit that the witness should be required to answer it in the first instance yes or no.

Mr. HARRY YOCKEY. I do not think, your Honors, just as the witness started to say, that the question can be answered by yes or no.

Mr. BARKELL. Read the question, please.

(Question read.)

Mr. HARRY YOCKEY. I do not think that question calls for a yes-or-no answer.

Mr. MOBERLY. I submit that it does, if the Board please, and I submit that it can be properly answered in such manner.

Mr. HARRY YOCKEY. What is the additional service?

Mr. BARKELL. I think that the question can be answered yes or no. The question is as to whether or not there will be an additional service in the field, or additional service instituted.

A. I would not say that it is an additional service, no, sir.

By Mr. BARKELL:

Q. Well, your answer is "No," is it?

A. "No."

By Mr. MOBERLY:

Q. You desire, then, do you, Mr. Christie, to stand on the answers which you have heretofore given me, in response to my previous questions?

Mr. HARRY YOCKEY. Well, now, I object to that question, as to what the witness desires to stand on, if your Honors please. The record will speak for itself.

Mr. BARKELL. What was that last question, please, Mr. Reporter?

(Question read.)

Mr. HARRY YOCKEY. Why should we get into another argument here on the record? He is bound by the record, so what difference does it make?

Mr. BARKELL. I think you are right about that.

Mr. MOBERLY. May I say just this one thing, your Honor: I am about through with my cross-examination of the witness. It seems to me that the witness, in answering my previous questions, has established, or attempted to establish, the fact that there are separate and distinct services here. I want to clear the matter up for the record, and for myself also. Now, when I get down  
567 to this last question, the witness says, "No." I am satisfied to stand on the record, myself, as far as that is concerned.

Mr. HARRY YOCKEY. Well, if counsel is willing to stand on the record, let him stand on it.

Mr. MOBERLY. It seems to me, however, for the benefit of the record, that we should have the matter cleared up.

Mr. EGGERS. I think that is as far as you have to go, Mr. Moberly.

Exam. HARRISON. The witness is under oath here.

Mr. MOBERLY. I realize that.

Mr. HARRY YOCKEY. We are agreeable to standing on the record also, so let us not ask any such questions as that.

Mr. MOBERLY. I will, of course, ask the witness any question I see fit.

Mr. HARRY YOCKEY. And I will object to any question of that sort.

Mr. MOBERLY. That is your right, of course.

Mr. HARRY YOCKEY. We know it.

Mr. ANDERSON. That is all right, but do not tell us what kind of questions to ask.

Exam. HARRISON. Now, gentlemen, I want you to refrain from this argument back and forth across the table between counsel. If you have any objection to make, address it to the Joint Board, and the Joint Board will rule on it.

Mr. BARKELL. Yes. Let us get along.

568 By Mr. MOBERLY:

Q. Now, Mr. Christie, you testified relative to a saving of time, some saving of time, obviating the necessity of the transfer of freight at Fort Wayne from one rail car to another rail car if the authority which is sought here is granted. Is that correct?

A. Yes.

Q. And I believe that the saving in time that you mentioned in that connection, was 24 hours.

A. Yes.

Q. That saving will not apply in all instances to freight moving through Fort Wayne to points on this route; is that correct?

A. By rail or by truck?

Q. Rail.

A. No, sir. Any shipments moving through Fort Wayne, and along this route by rail, will receive the same service that they do at the present time.

Q. And you will continue to ship by rail through Fort Wayne to points along this route, will you not?

A. To some points, yes.

Q. So that in those cases, then, there will not be any saving of 24 hours in time, will there?

A. No.

Q. By virtue of doing away with any interchange at Fort Wayne?

A. That is correct.

Q. Now, on your direct examination by Mr. Yockey, I believe you stated that The Pennsylvania Railroad will originate all of the freight along this proposed route.

A. Yes.

Q. By that statement you meant that the freight would travel on Pennsylvania Railroad freight bills, and would be secured by Pennsylvania Railroad solicitors, did you not?

A. I meant that the freight would travel on Pennsylvania Railroad bills of lading and waybills and tariffs.

Q. But you did not mean that the physical origination would be by the Pennsylvania Railroad in all cases, did you?

A. I meant that the freight will be shipped over the Pennsylvania Railroad by the shipper.

Q. Although actually The Willett Company may, and will, pick the freight up at its origin point and deliver it to final destination in some instances?

A. I haven't said—

Mr. BARKELL. Just a moment. He has answered that question at least once, as I recall it.

Mr. MOBERLY. If he has answered the question I will pass it, then. I believe that is all.

Mr. EGGERS. I would like to ask a few questions at this point, just to clear up a few matters.

By Mr. EGGERS:

Q. Mr. Christie, first getting back to this matter of the saving that you went into: I do not recall exactly the figures, but you do not have any exhibit, do you, covering any saving which would result if the application were granted?

A. No.

Q. Did you in the figures that you have compiled, or in any investigation which you may have made, consider the expense involved to The Willett Company in operating these trucks, keeping in mind the matter of servicing or repairs, or anything of that sort? Did you take that into consideration?

A. I took into consideration the cost of operation of the trucks, yes, sir, what it would cost—what the trucks would cost The Pennsylvania Railroad.

Q. That is, the contract price.

A. Yes.

Q. That includes overhead and all other expenses, incidental expenses incurred by The Willett Company, does it?

A. It includes everything.

Q. The total operating cost?

A. Yes.

Q. And that was reflected in the evidence which you gave with respect to saving to the Pennsylvania Railroad; is that correct?

A. When I made the statement that there would be a saving to The Pennsylvania Railroad, which was the only statement I made, that there would be a saving, I said that it would be more of a reduction in operating cost to The Pennsylvania Railroad, than what the total cost of The Willett Company would be in this service.

Q. You say, you made that statement?

A. Well, I made the statement that there would be an economy in it, but I guess that is all they would let me say just at that time.

Q. All right. So much for that, then. Now, do you know whether or not you require authority from any state commission, either of Michigan or Indiana, to take off this way-car that you have been speaking of?

A. No.

Q. Or do you know anything about that—

A. How?

Mr. EGGERS. Read the question, please.

(Question read.)

A. We do not.

By Mr. EGGERS:

Q. You do not?

A. It is my understanding that we do not.

Q. That is strictly an operating problem with your own company. The Pennsylvania Railroad Company, is it?

A. Well, Kipp's tariff gives us the right, of course, to substitute truck service for rail service.



Q. There will not be any change in your tariffs or your schedules, or in the holding out of service to the public, if this application is granted, will there?

572 A. If the application is granted, our offer of service to the public would be based on expedition of the service, in connection with the Willett truck operation. We would solicit freight on the assumption—or predicate it on the fact that we were going to expedite it.

Q. And the reason that you say you will remove the way-car is solely because there will be no freight for that way-car; that is correct, is it not?

A. Yes, sir; that is correct—with the exception of—there will be a few exceptions. Now, what I meant by this gentleman's question over here, Mr. Moberly—or rather, what I mean by my answer to that question, was this, that a shipper has the right to demand that his shipments come by rail, and if he does that, then we will have to send a car up there for them.

Q. Then you will have to have that way-car?

A. No, sir. We will not send the way-car, unless it is a case where the shipper demands it; and we have never yet had such a case.

Q. But if they do demand it—

A. Then we would send it.

Q. —then you have to send the car?

A. Yes, sir.

Q. All right. So much for that matter, then. Now, I believe you made one statement here which is not quite clear in my mind, to this effect, that if there was freight originating at  
573 Fort Wayne, destined for Kalamazoo, some of that freight would move entirely by rail, and some of it would move by motor carrier; is that correct?

A. Yes.

Q. All right. Now, what will determine what goes by rail, of that freight, and what goes by motor carrier?

A. In case the car had been loaded and pulled from the house, and we would get a shipment in the morning, before the departure of the truck from Fort Wayne, freight for Kalamazoo, we would send it up on the truck.

Q. But if it arrives or if it comes in after that time, then what would happen to it?

A. Well, then we would put it into a car and send it up that night.

Q. The freight, then, that does not make the truck at nine o'clock in the morning, under your tentative schedule—is that the correct time, nine o'clock.

A. I believe so; yes, sir.

Q. —that freight will not be expedited at all, will it?

A. The way it is handled now, do you mean?

Q. Yes.

A. No, sir.

Mr. EGGERS. I believe that is all.

By Mr. DES ROCHES:

Q: Mr. Christie, are you familiar with the operations of  
574 a common motor carrier operating between Cadillac,  
Michigan and Lake City, Michigan?

A. I know something about it, yes.

Q. That particular common carrier, an independent common  
motor carrier, so-called, is at the present time transporting  
freight for The Pennsylvania Railroad between those two points;  
that is true, is it not?

A. Yes.

Q. And that particular independent common motor carrier  
has been transporting freight for The Pennsylvania Railroad  
Company between those two points for how long, if you know?

A. Well, I believe it has been since December, 1939, if I remem-  
ber correctly. It is something like that, anyway.

Mr. EGGERS. Pardon me. What were those two points again,  
please?

Mr. DES ROCHES. Cadillac and Lake City, Michigan.

Mr. EGGERS. Cadillac and Lake City?

Mr. DES ROCHES. Yes.

Mr. EGGERS. Thank you.

By Mr. DES ROCHE:

Q. Now, Mr. Christie, those two points are involved in this  
application here, are they not?

A. Yes.

Q. You are asking here to have the applicant serve these two  
particular points, are you not?

A. Yes.

Q. Although those points are being served at the present  
575 time by the common motor carrier just referred to?

A. Yes.

Q. And the points are being satisfactorily served, are they not?

A. Well, I wouldn't say that; no, sir.

Q. You would not say that?

A. No.

By Mr. BARKELL:

Q. What would you say?

A. I would say that we can, by the use of our subsidiary com-  
pany here, if this application is granted, and we will, expedite  
the service to those points.

By Mr. DES ROCHES:

Q. Well, this particular common carrier operates a daily service between those two points, does it not?

A. Yes.

Q. How many services does it operate between those two points, daily services, if you know?

A. One.

Q. One?

A. Yes, sir.

Q. Do you know how many pieces of equipment that particular common motor carrier is operating between those points?

A. Well, the last time I knew of it, he had one truck.

Q. One truck?

A. Yes, sir.

Q. Now, under what arrangement is that freight being  
576 handled at the present time?

A. (No answer.)

Q. What is the tariff relationship?

A. It is under an agreement.

Q. A special agreement?

A. Yes.

Q. What is the agreement?

A. Well, the agreement is that he will handle the freight up there for us, and we will pay him so much for doing it—the ordinary agreement. I do not recall all of the details of it.

Q. That was an unusual arrangement for a railroad company to enter into, was it not?

A. No.

Q. Well, I thought you made the statement here a little earlier in your testimony, that your railroad company would not do business with a so-called independent common motor carrier.

A. I think that the testimony shows—I think that the record here will show that we have in several instances—

Q. Oh, in some instances you have?

The WITNESS. Let me finish, please.

Mr. DES ROCHES. Yes.

A. That we have in several instances made such an arrangement on a short haul like that, with an independent company.

By Mr. DES ROCHES:

Q. You have done it in those cases where you have been  
577 more or less compelled to do it; is that not the fact?

Mr. HARRY YOCKEY. Well, now, just a moment. What do you mean by "compelled to do it"?

Mr. DES ROCHES. I think the language of my question will speak for itself.

Mr. HARRY YOCKEY. Well, then, I object to the question as not being clear and understandable.

By Mr. DES ROCHES:

Q. You understand my question, do you not, Mr. Witness?

Mr. HARRY YOCKEY. I submit that "compelled to do it" is not clear.

A. I understand it; yes, sir.

By Mr. DES ROCHES:

Q. Will you answer it, then.

The WITNESS. There was an objection, and I don't know whether I am supposed to answer it or not. Shall I answer?

Mr. BARKELL. I suggest that you reframe the question, counsel, omitting the language to which Mr. Yockey has objected.

Mr. DES ROCHES. All right, your Honor. I will withdraw the question and ask another one.

By Mr. DES ROCHES:

Q. Now, then, Mr. Christie, who signs the bills of lading covering the freight that is transported by the applicant, The Willett Company of Indiana?

A. Well, in some instances—well, generally, the agent signs the bill of lading, but in some instances the trucker may sign  
578 it for the agent.

Q. All right. Whose name appears on the bill of lading, that of The Pennsylvania Railroad Company or The Willett Company?

A. Well, the name of The Pennsylvania Railroad Company should appear on the bill of lading.

Q. Well, as a matter of fact, whose name actually does appear on it? That is what I want to know.

A. I don't know. I don't know that I have ever seen one of them; but the name of The Pennsylvania Railroad Company certainly should appear on it.

Q. Well, then, where is there any privity of contract between a customer of The Pennsylvania Railroad Company and this applicant, in connection with the transportation of freight of The Pennsylvania Railroad Company?

Mr. HARRY YOCKEY. Well, now, just a moment. I object to the question. There is no privity of contract, and the witness has testified to that at least a half a dozen times here. If that is the conclusion counsel is trying to develop, we are just wasting our time, going into that sort of a question.

Mr. DES ROCHES. I want to find out, if your Honor please, who is going to pay losses, if any—

Mr. HARRY YOCKEY. He has already testified—

Mr. DES ROCHES. Covering damage in transit; who is going to pay claims covering loss or damage in transit?

Mr. HARRY YOCKEY. The witness has already testified 579 That it will be The Pennsylvania Railroad.

Mr. BARKELL. One at a time, now.

Mr. EGGEES. Yes. Give the Reporter a chance.

Mr. DES ROCHES. I am sorry.

Mr. BARKELL. Go ahead.

Mr. DES ROCHES. You say there would be no claim on the part of the customer against The Willett Company; the claim would have to be proven against The Pennsylvania Railroad Company.

Mr. HARRY YOCKEY. I say there has already been evidence introduced here that The Willett Company has certain types of insurance, covering every phase, which goes to The Pennsylvania Railroad.

Mr. DES ROCHES. That would not make any difference if there was no privity of contract between the customer and the carrier, and I want to know whether there is or not.

Mr. HARRY YOCKEY. What carrier do you mean?

Mr. BARKELL. The objection is overruled. The witness may answer the question.

The WITNESS. Do I understand that you want to stick us for a claim?

By Mr. DES ROCHES:

Q. I want to know who signs the bill of lading.

A. I will have to say that I don't know.

Q. You do not know?

580 A. No.

Q. Well, who would know as to that, connected with your company?

A. Well, the agent at Cadillac probably would know.

Q. Well—

A. However, I can tell you how it should be signed.

Q. How should it be signed?

A. If it is a shipment of the Pennsylvania Railroad, it should be signed by the Pennsylvania Railroad—well; I do not mean by the Pennsylvania Railroad, either. I mean, the name should be signed on it as representing The Pennsylvania Railroad Company by the company that actually receives the freight.

Q. Well, then, if I understand your answer correctly, the name Willett does not appear on the bill of lading at all, does it?

A. Not to my knowledge it does not.



Q. And the customers, then, of The Pennsylvania Railroad Company in case of any loss, would look to the railroad company for reimbursement; is that correct?

A. Certainly.

Q. And not to The Willett Company.

A. I don't know how The Willett Company enters into it.

Q. Well, is not The Willett Company the carrier in this particular case?

A. In which case?

Mr. HARRY YOCKEY. Well, now, just a moment. I object to the question. Counsel is just simply arguing with the witness,  
581 now. The contract will speak for itself, and I object.

Mr. DES ROCHES. I am not talking about Cadillac and Lake City now. I am talking about the operations over these new routes.

The WITNESS. Oh.

Mr. HARRY YOCKEY. I did not understand.

The WITNESS. I thought you were talking about Cadillac.

Mr. DES ROCHES. No.

The WITNESS. I misunderstood you. My answers were all predicated on the agreement that we have between Cadillac and Lake City.

By Mr. DES ROCHES:

Q. No; I have gotten away from Cadillac and Lake City, now, and I am talking about operation over the seven routes.

A. I was not following you correctly, then. Let us get back to the question.

Q. All right. Who does sign the bills of lading in connection with operations over the seven routes involved in this application?

Mr. HARRY YOCKEY. Do you mean who will?

Mr. DES ROCHES. Pardon me?

Mr. HARRY YOCKEY. Who will, you mean.

The WITNESS. Who will do it?

Mr. HARRY YOCKEY. Yes.

Mr. DES ROCHES. Yes.

582 A. The Pennsylvania Railroad agent.

By Mr. DES ROCHES:

Q. The Pennsylvania Railroad agent?

A. Yes, sir.

Q. All right.

A. Now, I would like to modify that.

Mr. BARKELL. All right.

A. And say that if and when we call upon The Willett Company to perform a pickup and delivery service for us at any of

these stations, then they will sign the bill of lading for The Pennsylvania Railroad; but it will read "Pennsylvania Railroad" as the carrier, and then "Willett Company" as the agent.

By Mr. Des Roches:

Q. "Willett Company" as the agent?

A. Yes.

Q. Is The Willett Company performing that particular type of service at Grand Rapids?

A. Yes.

Q. At this time?

A. Yes, sir.

Q. Now, then, you spoke yesterday of the fact that if this application is granted, the applicant will add approximately 10 men to its employ. Did I understand you correctly?

A. No, sir; I don't believe I said that.

Q. Well, then, did you hear that testimony?

A. Yes.

Q. Now, you have spoken of the savings here today.  
583 Necessarily, if this application is granted it will mean, will it not, that the railroad will probably lay off ten or more employees?

A. It will not.

Q. It will not?

A. No.

Q. But still you are dropping the crews, and making changes in connection with the switching arrangements, and still there will be no change in personnel?

A. That is correct.

Q. There will be no saving there at all?

A. I didn't say that.

Q. There will be a saving in pay, though, will there not?

A. There will be a saving in overtime, which they claim they do not want, anyway.

Q. Will the individuals who are connected with the railroad at these particular points, put in as many hours per week as they are putting in at the present time—I mean, if this application is granted?

A. At these points, you say?

Q. I mean, at any of the points that are involved in this application.

A. Well, now, I stated this, that there would be a saving in overtime, as far as the operation of the local crews is concerned, and there will be—

Q. Do you mean that they will receive less money per  
584 week than they are receiving at the present time?

A. Certainly they will; yes, sir, and along with that they will work less hours.

Q. Substantially less?

A. I would not say substantially less; no, sir.

Mr. DES ROCHES. That is all.

By Mr. CLARDY:

Q. Witness, to continue right along on that same point for a moment or two further: When you answered an earlier question about the elimination of the peddler cars, you said that they would be eliminated, and then you proceeded to qualify your answer in such a way as to indicate that they would not be entirely eliminated. Now, let us see if I correctly understand you. You intend to operate exactly the same number of local freight trains that you are operating at the present time; that is right, is it not?

A. Yes.

Q. And you do not intend to eliminate the peddler cars from the operation of those way-freights in every instance, in the way-freight operation, do you?

A. Well, I would say that there would be—

Q. Now, pardon me, Witness. That question admits of a yes or no answer, and then if you want to explain it, all right.

Mr. BARKELL. I think so.

Mr. CLARDY. But first, give me an answer to my question, yes or no. Then if you want to explain, you may.

585 The WITNESS. Repeat the question.

Mr. CLARDY. Read it, please.

(Question read.)

A. No, sir. There might be a few isolated cases, in which we would have to operate a way-car.

By Mr. CLARDY:

Q. So far as the specific point of Kalamazoo is concerned, when you are serving it out of Fort Wayne, do I correctly understand that you intend to have a car in the way-freight destined to Kalamazoo, with that less than truckload freight, as a regular proposition?

A. We do not intend to operate any peddler car between Fort Wayne and Kalamazoo, unless as I say, it might be in an isolated case where some person might demand that the freight be shipped by rail.

Q. Well, now, you told me—or you told somebody here, rather, a little bit earlier in your testimony, that insofar as Kalamazoo and Fort Wayne are concerned, there was so much of that business available, that it would move almost exclusively in rail service—did you not?

A. Yes.

Q. All right. Now——

A. I would like to say this——

Q. Well, just a moment, Witness. Let me ask another question.

A. Well, let me get you straight on that.

586 Mr. CLARDY. No. I am doing the examining now, and you have answered my question, and I want to ask you another one.

Mr. HARRY YOCKEY. Oh, now, just a moment. A witness always has the right to explain an answer, if he wants to explain it.

Mr. CLARDY. There is no question pending, and I am about to ask the witness another question.

Mr. BARKELL. Go ahead.

By Mr. CLARDY:

Q. Would that car, bringing that merchandise to Kalamazoo, move in some train other than the way-freight train?

A. The car operating——

Q. Now Witness, I want to stop you right there, and ask you to answer my question yes or no, first; and then you may qualify it.

Mr. EGGERS. He is trying to explain his answer as he goes along.

Mr. BARKELL. I appreciate that, but you can at least answer that question yes or no, Mr. Witness, that particular type of question; and then if you want to qualify your answer, or explain your answer, you will be permitted to do so.

Mr. CLARDY. I do not object, Witness, to your adding to your answer whatever you think is necessary by way of explanation, but please say yes or no, first, and then you may proceed.

The WITNESS. What is the question, now?

Mr. CLARDY. Read it.

587 (Question read.)

A. Yes; but——

Mr. BARKELL. Go ahead.

A. The car from Fort Wayne to Kalamazoo is not termed a way-car; it is a destination car.

By Mr. CLARDY:

Q. I did not term it a way-car—or if I did, it was unintentional.

A. All right.

Q. I think that you read something into the question that was not there, in your anxiety.

A. I don't think so.

Q. Well, then, does the freight that is destined to Kalamazoo today move exactly as it is going to move in the future, even though this application is granted?

A. Practically all of it in the future will move as it is moving today; yes, sir.

Q. Then, insofar as freight to Kalamazoo is concerned, there will be no saving in time if the application here is granted, will there?

A. On freight that moves in cars?

Q. Yes.

A. No.

Q. How often will there be any freight moving in a car destined to Kalamazoo?

A. Oh, I should say—I would estimate that there would  
588 be a shipment every day or so, possibly; small shipments or something like that.

Q. If it was only a small shipment, then it would move on the local freight, would it not?

A. No, sir. It would move by truck, Willett truck.

Mr. CLARDY. You did not understand my question, then.

Mr. HARRY YOCKEY. I think the record is confused.

Exam. HARRISON. Yes.

Mr. CLARDY. All right, your Honor. Then I will start all over again.

By Mr. CLARDY:

Q. If there are small shipments to move by rail to Kalamazoo, that will not move exactly as they move today, will you handle those shipments on the local freight, or how will you get them there?

A. If we would have those small shipments today, they would be loaded into a destination car for Kalamazoo.

Q. Will that practice be changed?

A. Yes.

Q. How?

A. We would load them onto the truck.

Q. All right. Now, how many pounds of freight per day would that amount to?

A. Oh, I don't know; not a great deal.

Q. Well, when you say "not a great deal," do you mean something less than a couple of hundred pounds?

589 A. Well, I would say, less than 500 pounds.

Q. All right.

A. Generally speaking.

Q. Now, turn to applicant's exhibit No. 5 in this proceeding, if you will, please.

A. 5?

Q. Yes.

A. All right.

Q. The first item is: Fort Wayne to Kalamazoo?

A. Yes.



Q. Would you tell me now whether any of the tonnage which you have shown there is tonnage that will originate at Fort Wayne or points beyond, and move to Kalamazoo by rail—or rather, perhaps I should have expressed that in the past tense: did that represent such freight?

A. Yes, sir.

Q. How much?

A. There is approximately 1,000 pounds per day. I think I added in there about 1,000 pounds per day.

Q. From Fort Wayne to Kalamazoo?

A. Yes.

Q. And from Kalamazoo to local points also?

A. Yes, sir. There is some local tonnage in there, about 1,000 pounds, from Fort Wayne to Kalamazoo.

Q. Now, Witness, my next question is this: out of that 590 total, in the first line, would you please tell me where the tonnage originated and where it moved to, on that part of the proposed operation?

A. (No answer.)

Q. I am not speaking about the future. Now understand me before you answer. I am speaking about the actual figure, because you told me that this was the December 1941 figure.

A. Yes.

Q. Now, I want to know the actual points of origin and destination that were involved in that tonnage figure.

A. I cannot say.

Q. Do you have any data here that will tell you that?

A. No, sir; I have not, and I did not have any when I worked this up, either.

Q. Well, is that same thing true with respect to all of the other figures shown on applicant's exhibit No. 5?

A. Yes.

Q. Then there is no present way in which we could tell whether a single pound of that freight originated at Kendallville, Indiana, for example, and moved to some point such as—well, let us say, Vicksburg, or some other little town adjacent thereto, is there?

A. (No answer.)

Q. We could not tell that at all, could we?

A. From this statement?

591 Q. Yes.

A. No; you cannot.

Q. Do you have any information here available, then, Witness, that will enable us to find out that fact?

A. I cannot tell you the exact points that it went to, but I did make a study of the shipments originating along the route, that were transferred in interstate commerce.

Q. Where?

A. Along this route between Fort Wayne and Kalamazoo.

Q. That were transferred where, I say?

A. Well, it would be from Indiana to Michigan or from Michigan to Indiana, between Fort Wayne and Kalamazoo. Now, to state the point, I cannot tell you now what it was, but I did make a study.

Q. All right. To save time, since in all probability you will be at any adjourned hearing that we may have in this matter, would you mind getting up for me the precise figures upon which you base the information that is set up on applicant's exhibit No. 5, to show from where and to where the movements were handled?

A. That would be an impossibility—or rather, I would not say that it would be an impossibility, either, but it would be impracticable for me to get you that information—.

Q. Well—

A. Because—

592 Q. You are not refusing to do it, are you?

A. For you; yes.

Q. You will not do it?

A. For you I will not do it; no, sir.

Mr. CLARDY. Well, I will not take the time to inquire into your motive in that.

By Mr. CLARDY:

Q. Now, Witness, with respect to Kalamazoo, just so that we may be sure, however, you say that there may be about 1,000 pounds of freight either into or out of Kalamazoo, moving in interstate commerce, to or from some point between Kalamazoo and Fort Wayne, including Fort Wayne; is that correct?

A. (No answer.)

Q. In other words, about 1,000 pounds out of this total in the first line of applicant's exhibit No. 5 here, would deal with the Kalamazoo-Fort Wayne operation; is that correct?

A. Yes, sir.

Q. All right.

A. That is right, if I understand your question correctly, that is.

Q. All right. Now, with respect to the next line: would you know at the present time whether any of the movements included in that figure were movements from Fort Wayne, or points in Indiana, up to Grand Rapids and points intermediate between Kalamazoo and Grand Rapids?

593

A. Yes; it does include them.

Q. All right. Then my next question is this: can you give me a break-down of those figures, so that I may know where the movements originated, and where they went to?

A. No, sir; I cannot, because I didn't get these figures in a broken down condition myself. I got them from the total of the month's business.

Q. Somebody handed you the figure, from your accounting department, is that correct?

A. I took it from the actual tonnage handled at the station.

Q. Well, I know, but that was in the form of a report that was sent to your accounting department, and which was in turn handed over to you, was it not?

A. Yes.

Q. So that you did not see then, did you, the original daily freight abstracts of freight received and forwarded, interline and local?

A. No, sir. They would not show that, anyway, if I had seen them.

Q. How is that?

A. I say, we do not show that on our abstracts.

Mr. CLARDY. Well, would you mind telling me now, whether or not you will get me that break-down.

Mr. HARRY YOCKEY. He said "No."

By Mr. CLARDY:

Q. Does that "No" apply to all of this?

594

A. Right.

Mr. CLARDY. Well, I guess I cannot compel you to do it.

The WITNESS. I guess you cannot.

By Mr. CLARDY:

Q. Now, Witness, I want you to refer for just a moment to applicant's exhibit 4.

A. All right.

Mr. HARRY YOCKEY. If the Board please, will you pardon me just a moment—may we be off the record?

Mr. BARKELL. Off the record.

(Discussion outside the record.)

Mr. BARKELL. Back on the record.

By Mr. CLARDY:

Q. Do you have a copy of applicant's exhibit 4 before you there, Witness?

A. Yes.

Q. You made this up, as I understand it; is that correct?

A. Yes, sir.

Q. So as the author of it, you should know something about it, should you not?

A. I think I do.

Q. All right. Now, on the operation north out of Fort Wayne—and for convenience sake I wish you would have applicant's exhibit 2 in front of you also, to use in conjunction with the other exhibit.

A. All right.

Q. I want to refer you to a few specific points, just to 595 highspot this thing, because you have talked in generalities during much of the time that you have been testifying here, and I want to be accurate now.

Mr. HARRY YOCKEY: Of course, the record will speak for itself, as to how the witness has talked.

Mr. BARKELL. Proceed.

By Mr. CLARDY:

Q. (continuing.) Now, let us take a point—well, let us take Fort Wayne to start with, and let us take a point north of Kalamazoo as the destination point. Take any town there that you want to name. Which one do you want to take?

A. Oh, it doesn't matter.

Q. All right. Let us take Plainwell, then.

A. All right. That is the first one.

Q. Yes. Now, let us suppose that a shipment coming from somewhere in the United States comes into Fort Wayne destined to Plainwell, Michigan. Would you please tell me now the physical manner in which that shipment will be handled from the moment that the car containing it enters the yard at Fort Wayne, clear up until the time it is delivered to the door of the consignee in Plainwell.

A. Well, that shipment would arrive in a car at Fort Wayne, and as I explained yesterday, go through the process of breaking up the train, and finally it would get into the Fort Wayne freight 596 house; and then the shipment would be transferred to a car for Grand Rapids, Michigan, where it would be the next morning, and the truck leaving Grand Rapids would bring it back to Plainwell. Now, you understand—

Q. Just a moment.

Mr. EGGERS. That is, in the proposed operation?

The WITNESS. Yes.

Mr. EGGERS. Or under the proposed operation?

The WITNESS. Yes.

By Mr. CLARDY:

Q. Let me just be sure, Witness, that we understand one another now.

A. That is one of them.

Q. Yes; I understand, but I want to ask you a few more questions about it as we go along.

A. Well; I would like to finish what I was saying, before you start to ask me another question. That is one operation. I have not quite finished my answer.

Mr. HARRY YOCKEY. Go ahead.

Mr. BARKELL. Yes.

Mr. EGGERS. Continue.

Mr. HARRY YOCKEY. Go right ahead, Mr. Christie.

A. I say, it would be loaded into a car to Grand Rapids, and brought back to Plainwell on the early morning truck—or on the morning truck, say. Another operation, if that particular shipment was in the Fort Wayne house before 9:30 o'clock in the morning, would be this, that we would load it onto a truck  
597 for Kalamazoo, which is scheduled to arrive there at 4 o'clock p. m., and it would make connection with a truck leaving Kalamazoo at 4 p. m., and go to Plainwell.

By Mr. CLARDY:

Q. All right. Now, let us take these operations up in their turn. In the first operation, what time actually at the present time does the freight arrive in Fort Wayne, destined for such towns as Plainwell?

A. Various times.

Q. Well, you know something about that from the train schedules, do you not?

A. Yes, sir. Our freight from the east arrives there during the night, at 12:30 a. m. From Chicago it arrives in there at 4:30 a. m.—I believe it is. We have way-cars that get in there late in the afternoon, at 4 o'clock p. m.

Q. That would be local freight coming from points within 100 or 200 miles of Fort Wayne, would it not?

A. Yes, sir.

Q. All right. Now, let us assume that it is in one of these cars that you mentioned last, that get into Fort Wayne in the afternoon.

A. All right.

Q. Would it then be distributed over the dock of the railroad company, and loaded in a car destined for Grand Rapids?

A. In that case it may or it may not be. A car arriving at Fort Wayne, a peddler car, at 4 o'clock in the afternoon,



598 — will never get into the house that same day, but it will be in the house the next morning.

Q. Then, if under the circumstances that we are now discussing, a piece of freight gets in on a Tuesday, we will say, in the afternoon, at 4 or 4:30 p. m., at Fort Wayne, destined for Plainwell, it will not be broken up and distributed until the next morning; is that right?

A. That is right; yes, sir. A car arriving at Fort Wayne at 4:30 in the afternoon would not, as I say, get into the house that day; we cannot get it into the house and work it that day.

Q. How late in the afternoon could it arrive, and you still be able to get it into the house and work it that day?

A. Oh, I would say, around 2 o'clock.

Q. All right.

A. I mean, in the house by 2 o'clock.

Q. How?

A. In other words, I mean, the car would have to arrive there by noon, in order to get it in there that same day.

Q. I see.

A. It takes two or three hours.

Q. Well, then, anything that arrives up until noon will be worked that same day; is that correct?

A. Right.

Q. And anything that arrives after that time will not be worked until the following day?

599 A. That is right.

Q. All right. Now, we are going to assume it is a case where it is not worked until the following day.

A. All right.

Q. Would that freight then be loaded the next day into a freight car, or would it go by truck to Plainwell?

A. Truck.

Q. It would go by truck to Plainwell.

A. Yes.

Q. All right.

A. Anything which is unloaded would go by truck to Kalamazoo, and then be transferred to the other truck.

Q. All right. Now, despite the fact that you have one truck scheduled in at 4 p. m., and another truck scheduled out at 4 p. m., you will make that transfer instantaneously, and send the departing truck right on out, will you?

A. Well, you understand, do you not, Mr. Clardy—I believe you told me outside the record that you are an ex-railroad man.

Q. Yes; I am sorry to say, I am.

A. — when you make a schedule—and I guess it was force of habit in this schedule here also—what you term as the “rubber”

in the schedule is always on the final terminal end; and while that truck there is scheduled in there at 4 o'clock p. m., quite generally I think it will get in there at a quarter of four.

Q. All right. Now, let us see about that a little further.  
600 Did you not also say that you set this schedule up to co-ordinate entirely with your train schedules?

A. No.

Q. I understood you to say that.

A. No, sir.

Q. What did you say?

A. I said, with the train schedules and the truck schedules.

Q. All right. Is there any train connection that is supposed to make, or any train with which it is supposed to connect at 4 p. m., for departure toward Grand Rapids?

A. No, sir. That truck is supposed to connect with the truck leaving Kalamazoo at 4 p. m., even to the extent that the truck might leave later, from Kalamazoo.

Q. I was just going to ask you that as my next question, witness. You will hold that truck over, if the other truck happens to be held up and is late getting into Kalamazoo, will you?

A. Reasonably late.

Q. Well, how late is reasonably late?

A. Oh, I would say, maybe an hour, or half an hour, or something like that. We want to get the truck into Grand Rapids by the time we close the freight house, which would be approximately between 7 and 8 o'clock.

Q. All right. Then, if the truck is more than 30 minutes to an hour late, there would not be any connection at Kalamazoo, would there?

601 A. No, sir.

Q. That is right, is it?

A. Right.

Q. All right. Now, let us take another instance. Let us suppose instead of taking that shipment to Plainwell, we are going to take it to a point north of Grand Rapids; as a matter of fact, we are going to go so far north that we are going over onto this route that runs off to the right up there, into Traverse City. Now, would you mind tracing such a shipment through for me?

A. From Fort Wayne?

Q. Yes.

A. A shipment from Fort Wayne—

Q. Now, Witness, this is the same shipment that gets in there at 4:30 in the afternoon—just so that we understand each other.

A. Yes.

Q. All right. How would that be handled?

A: A shipment received at 4:30 in the afternoon at Fort Wayne will be loaded into a car for Cadillac, Michigan.

Q. The next day?

A. That day.

Q. The same day?

A. Yes.

Q. I thought you told me just a moment ago here if a  
602 car got in there with a shipment for the north after noon, it would not be worked until the next day.

A. Well, now, I guess that you and I have gotten off the track again, here.

Mr. BARKELL. That is the testimony that you have given, Mr. Witness, if I understood you correctly.

Mr. EGGERS. Yes.

The WITNESS. That is right, I did say that, too; but that was not my understanding of the last question. A shipment arriving at Fort Wayne, coming into the yard, we will say, at 4:30 in the afternoon, on a Monday—if that illustration is all right.

By Mr. CLARDY:

Q. All right.

A. —will be placed in the freight house on Tuesday, and will be transferred to a car that is destined to Cadillac, and it will be at Cadillac Wednesday afternoon at 3 p. m.

Q. Now, wait a minute.

A. You asked me; now, let me tell you, let me finish my answer.

Mr. HARRY YOCKEY. Let him finish.

By Mr. CLARDY:

Q. Just so I will be able to follow you intelligently, Witness. You say it will leave Fort Wayne that day—

The WITNESS. He keeps interrupting me.

Mr. CLARDY. I just want to be sure that I understand the witness correctly as he goes along.

The WITNESS. You do not let me finish my answer.

603 Mr. HARRY YOCKEY. Counsel keeps breaking in.

Mr. BARKELL. Let the witness finish his answer. Go ahead.

Mr. CLARDY. If I may, your Honor, I want to get this—

Mr. HARRY YOCKEY. Now, Mr. Clardy, let the witness finish his answer. I insist that you permit the witness to finish his answer.

Mr. CLARDY. If counsel has any objection to make, let him make it.

604 Mr. HARRY YOCKEY. I object to counsel's constantly breaking in on the witness, when he is trying to answer one of counsel's questions. Give the witness a chance to complete his answer.

Mr. CLARDY. Now, your Honors, I submit that I have a perfect right to do what I am doing. I merely want the witness to give me the exact departure time as he goes along, out of each point, so that I can intelligently follow the thing through with him.

Mr. BARKELL. All right.

By Mr. CLARDY:

Q. Now, Witness, will you give me the departure time out of Fort Wayne?

A. Well, now, I am not just sure where we left off, so maybe we had better start all over again.

Q. Fine!

A. All right. This car arrives at Fort Wayne, in the yard, at 4:30 in the afternoon, on Monday.

Q. Right.

A. That car will be placed in the Fort Wayne freight house Tuesday morning.

Q. All right.

By Mr. EGGERS:

Q. Right there; let me ask you: About what time?

A. Between midnight and six o'clock.

Q. Would it be in there by nine o'clock?

605 A. Oh, yes.

Q. The next morning?

A. Yes.

Mr. EGGERS. Continue.

A. It will be placed in the Fort Wayne freight station Tuesday morning. That shipment will be transferred on Tuesday into a car that is destined for Cadillac, Michigan. The car will be switched from the Fort Wayne freight house on Tuesday at approximately seven or eight o'clock.

By Mr. EGGERS:

Q. At night?

A. At night, yes, sir; and will depart from Fort Wayne in a train at 12:25 a. m.

Q. That would be Wednesday morning.

A. Yes, sir. I will be in Grand Rapids at 7:30 a. m. Wednesday morning. Then another train will take that car, that departs from Grand Rapids at 10:00 a. m. Wednesday morning, and the car will be in Cadillac at 3:00 o'clock p. m. Wednesday afternoon; and the truck will depart from Cadillac with that shipment at 4:00 p. m. Wednesday afternoon, and it will be in Traverse City at 8:00 o'clock Wednesday.

By Mr. CLARDY:

Q. In the evening?

A. Right.

Q. And be delivered in the normal course of business, Thursday morning?

A. Yes, sir.

606 Q. All right. Now at the present time if you have a shipment that is scheduled for the same point; that is, Traverse City, how would it get there?

A. A shipment arriving in the Fort Wayne yard at 4:00 p. m. on Monday, would be placed in the Fort Wayne house on Tuesday, and be transferred into a car for Grand Rapids, Michigan.

Q. Well, then, it would get up to Grand Rapids at the time that you just outlined, would it not?

A. Let me explain that a little further, please.

Mr. BARKELL. Go ahead.

A. You keep interrupting me, and compel me to go back.

Mr. CLARDY. I am sorry.

The WITNESS. I am trying to figure out this schedule, and be accurate in what I say, and listen to you too.

Mr. CLARDY. I am sorry.

Mr. BARKELL. Go ahead.

A. A shipment arriving in a car at Fort Wayne at 4:00 p. m. on Monday, will be in the Fort Wayne freight house on Tuesday morning.

By Mr. CLARDY:

Q. All right.

A. It will be transferred and forwarded in a car from Fort Wayne to Grand Rapids, leaving at 12:25 a. m. Wednesday. It will arrive at Grand Rapids at 7:30 a. m. Wednesday, and will be transferred in the Grand Rapids freight house Wednesday, into a car peddling freight on the Traverse City branch; and will depart from Grand Rapids Thursday at 10:00 a. m., arriving at Cadillac at 3:00 p. m. on Thursday, and departing from Cadillac on Friday, on the local, at 11:00 a. m.—  
607 or rather, 11:00 a. m. to 12:00; and get into Traverse City on Thursday night—or rather, Thursday afternoon, late, and probably be delivered on Friday.

Q. All right.

A. Now I think I have covered it.

Q. Supposing you started it out of Fort Wayne on Tuesday. It would get in there 24 hours earlier than this schedule, would it not?

A. No, sir; it would be 24 hours later.



Q. Well, now, you are running an every other day service north of Grand Rapids, are you not?

A. Where to?

Q. North.

A. Well, can you be a little bit more specific?

Q. To the point that we are talking about.

A. Traverse City?

Q. Up that way.

A. We have got one train from Grand Rapids to Traverse City.

Q. Do you run a train up to Cadillac, or do you make it up at Cadillac?

A. We run a daily train to Cadillac.

Q. All right. Now let us start over.

A. All right.

Q. If this shipment gets into Grand Rapids—let us assume that it would get in there on the day you suggested, which is a day later than you were talking about before.

A. All right.

Q. If it did that, on that day, then it would not have to lie over, as you have indicated, before it left Grand Rapids, would it?

A. That would be an additional day that it would lay over.

Q. If it got in there on another day?

A. Yes.

Q. On what days do you run your train north out of Grand Rapids?

A. Daily.

Q. Every day?

A. Yes, sir.

Q. Where is the every other day service that you mentioned earlier in your testimony here?

A. Between Cadillac and Traverse City.

Q. Oh. All right. Well, then, let us suppose, as we discussed a moment ago here, that it gets into Cadillac on a day later schedule than we were talking about. Then it would not lie over 24 hours, before it went out, would it?

A. Yes.

Q. Just the same?

A. Yes, sir.

Q. Regardless?

A. It would be delayed an additional day; yes.

Q. Why?

A. Well, because this train from Grand Rapids gets into Cadillac at 5:00 o'clock p. m., and your Traverse City train leaves at 11:00 o'clock a. m., which makes one-day lay-over. Now,

if the local does not run the next day, then there would be two days for it to lay over.

Q. All right. Now, have you checked the operating schedule of any carrier running out of Fort Wayne, that can operate all the way up to Traverse City?

A. Do you mean motor carrier?

Q. Yes.

A. No.

Q. Would you have the slightest idea as to what service they could give, in a through operation, an operation all the way through?

A. I wouldn't have the slightest idea.

Q. You never checked that?

A. No, sir.

Q. Or made any investigation?

A. None whatsoever.

Q. And you do not intend to make any?

A. No.

Q. Now let us take a shipment starting out at Kendallville, Indiana, that is destined to the same point we have been talking about—

610 Mr. HARRY YOCKET, Petoskey?

Mr. CLARDY. No; Traverse City.

The WITNESS. Traverse City.

By Mr. CLARDY:

Q. Would that shipment move out of Kendallville by rail at the present time?

A. Yes.

Q. Directly north, or would it go back to Fort Wayne?

A. Well, it might move in either direction.

Q. You might have the way-freight going south pick it up and bring it up into Fort Wayne, shuffle it there, and send it out the next day; is that right?

A. There might be a way-freight pick it up and take it north to Kalamazoo, and then to Grand Rapids. It could move, and possibly would move either way.

Q. Would you make any change in that part of the operation if this application were to be granted?

A. In the method of handling?

Q. Yes.

A. Oh, yes.

Q. How would that be?

A. We would bring that shipment from Kendallville down to Fort Wayne, and load it into a car for Cadillac, and then take it out—

Q. The change would be at the other end, by the use of the truck there, would it?

611 A. No, sir; it would be at the south end also at Kendallville. We would pick the shipment up by truck at Kendallville.

Q. Well, now, let us see. You would pick that up by truck at Kendallville, you say.

A. Yes.

Q. And bring it into Fort Wayne?

A. Yes, sir.

Q. And then start it out of there by train?

A. Yes, sir.

Q. Well, if that is the case, if the shipment were not available before—oh, say, between two and three o'clock in the afternoon, it would have to wait until the next day before it could even get started on its journey, would it not?

A. If it was not available at the time the last truck left there, it would have to lay over until the next day; yes, sir.

Q. And what time, if you know, would the last truck be available in Kendallville?

A. Oh, 2; 15 p. m.

Q. So that anything that was offered after 2:15 p. m. would remain there 24 hours before it was picked up under the proposed new scheme, would it not?

A. Well, it would remain there until the next day. It could be picked up in the morning of the next day.

Q. Well, I think perhaps you are right, but it would still be another calendar day, would it not?

612 A. Yes, sir.

Q. To shorten it up, if we take any of the towns that have been named along this route north of Fort Wayne, intermediate between there and Kalamazoo, the same situation would prevail, would it not?

A. Yes.

Q. The only difference being that if it was at some of these other points, it would have to be picked up even earlier than 2:15 p. m. in order to get moving that same day, would it not?

A. I wouldn't agree to that; no, sir; in any such general way.

Q. Well—

A. Give me a specific point.

Q. All right.

A. And I will try to answer it.

Q. All right. I will give it to you, with your help. Will you tell me the name of another town in Indiana, north of Kendallville, between there and the Michigan-Indiana State line?

A. Lagrange.

Q. Lagrange.

A. Yes.

Q. All right. Now what time would the truck pick up at Lagrange, if it was going to take a shipment into one of the Michigan points that you have been discussing?

A. Well, the latest time of the day would be 12:45 p. m., Eastern Standard time.

613. Q. All right. Then if the truck—

A. Well, now, wait a minute. Let me correct that. I mean, Central Standard time.

Q. O. K.

A. Central Standard time.

Q. I thought you were confused as to the illustration.

A. No, sir. On the schedule, I have changed the schedules of the trucks from Central Standard time to Eastern Standard time, that was why.

Q. Do not get it confused with this war time, now.

A. No. We use Central Standard time, and Eastern Standard time.

Q. All right. Any shipment that would be offered you after that hour, then, would remain in the town until the next day, before it started on its journey. That is right, is it not?

A. Yes, sir; just the same as it does now.

Q. Well, if freight is offered to you at an hour after twelve—something at Lagrange today, do you not have a way-freight that operates through that town later than that hour?

A. Well, now, our freight trains—or rather, I mean to say our time-tables do not schedule a way-freight at that town at that time. Perhaps you do not understand—

Q. I am perfectly familiar with the way it is handled.

A. However, I can give you the information exactly.

Q. Well, you can answer the question this way—

A. Just a moment, please, now. I am going to try and  
614 figure out something for you.

Q. I want to help you.

A. Well, you are not helping me at all, when you keep interrupting me. You are just disturbing me.

Q. All right.

A. Well, now, we have a way-freight leaving Fort Wayne at 12:01 p. m., that would possibly get to Lagrange at about—oh, I would say possibly around eight o'clock at night.

Q. And if there were a shipment tendered to your station agent at that town at any time up until eight o'clock at night, it would be loaded into that way-freight, would it not?

A. For where?

Q. To the north.

A. Yes, sir; it would be loaded into the way-car for Kalamazoo.

Q. Well, now, Witness, we are just starting this shipment out on its journey to these upper Michigan points that we have been discussing here.

A. All right.

Q. The shipment would leave the town, at the present time, on the same day on which it was tendered, would it not?

A. Yes.

Q. But if it was tendered in the afternoon, hereafter, when this motor carrier service is in effect, it would not leave town until the next day, would it?

A. That is correct.

815 Q. All right. Now would not that same condition exist at most of the towns, all the way along this route?

A. Well, I wouldn't say that it would exist in most of them, no, sir, because there is a good part of these towns, that are going to be late in the afternoon.

Q. Well, now—

A. (Continuing.) But there is such a condition exists at all—or practically all of the points, I will say.

Q. All right, sir. Now, then, on your operation out of Fort Wayne up to Kalamazoo and Grand Rapids: Do you have any motor carrier competition at the present time?

Mr. HARRY YOCKEY. Just a moment. Whom do you mean by "you," now?

Mr. CLARDY. How?

Mr. HARRY YOCKEY. Whom do you mean by "you"?

Mr. CLARDY. You said that he was representing the railroad.

Mr. HARRY YOCKEY. All right.

Mr. CLARDY. He has not changed, that I know of.

Mr. BARKELL. Answer the question.

A. Well, I presume that we have; yes, sir. To name you any specific ones, I wouldn't be able to do that; but I assume that there are many trucklines operating between Fort Wayne and Kalamazoo.

By Mr. CLARDY:

Q. And are any of those trucklines endeavoring to get freight from the same people that you serve?

616 A. I assume that they all are.

Q. Do you have any knowledge about the competitive situation there?

A. No.

Q. Have you ever made an investigation—

A. No.

Q. — to discover that?



A. No, sir.

Q. So that you are entirely innocent of first-hand knowledge here today, are you?

A. Yes, sir; that is correct. I have not made any investigation whatever of any motor carriers along any of these seven routes, and I have no desire to, and I do not intend to.

Q. Then so far as you know, if you could secure the service of an independent motor carrier, to furnish the service which is here proposed, you would not know whether that would in any way affect your business, or your operation, at all, would you?

A. Well, assuming—

Q. No, Witness; I do not want you to assume anything now. I have asked you a direct question.

A. You said "If."

Q. I say, I do not want any assumption, now.

A. But you said: If we did.

Mr. BARKELL. Read the question, please.

(Question read.)

617

By Mr. CLARDY:

Q. Can you answer the question?

A. You say in your question, if we were to do it; and on that assumption, if we were, I would make an investigation—

Mr. CLARDY. Now, Mr. Reporter, will you go back and read my question once more to the witness, please, and I will ask the witness to answer the question.

(Question again read.)

A. I don't know what you mean by that.

Mr. BARKELL. I think, Mr. Witness, that the question is very explicit. Counsel first asked you if you had made any investigation of any of these independent carriers, and he is asking you now, if I understand the question correctly, if you entered into a contract with one of those independent trucking companies, would that affect your business in any way?

Mr. HARRY YOCKEY. The witness has already said, your Honor, that he does not understand counsel's question.

Mr. CLARDY. No; I have not heard him say that. I want him to say whether it will or not, or whether he knows or not.

The WITNESS. I just got through telling you that I did not know what you are talking about, and I still do not know what you are talking about.

Mr. CLARDY. All right.

The WITNESS. Affect our business how?

Mr. CLARDY. I will explain what I have in mind to you, Witness, because I want a clear answer here.

618

The WITNESS. All right.

By Mr. CLARDY:

Q. We are supposing that, instead of this applicant getting the authority it is seeking here, it does not get it. Do you follow me so far?

A. All right.

Q. And that, under that circumstance, you seek out a motor carrier operating over these routes, and have that carrier perform exactly the same identical service. You follow me, do you?

A. Yes.

Q. All right. Now, then, my question is, in the present state of your knowledge, or lack of knowledge of the competitive situation, are you presently able to tell me whether the hiring of such independent carrier would in any way affect your business as a railroad between those points?

A. Well, I still do not know that I understand what you mean. Do you mean, would it cause us to lose business?

Q. Would it affect your business in any way, either cause you to lose, or cause you to gain?

A. (No answer.)

Q. Or do you know?

A. No, sir; I don't know.

Q. Thank you. Now, you said, in a rather general fashion, something about savings in the operation that will be put in, but you did not go into any detail at all, and I want to ask you this question, on a related subject: Will it not cost you something if you operate both the way-freight, as you have outlined it to me, and also operate the truck schedules that you propose?

A. Why, I did not outline to you that we would operate any way-freight cars. Peddler cars, do you mean?

Q. Let me reframe the question. If you operate your way-freight trains as you have outlined to me, and also obtain authorization to, and actually do, have The Willett Company serve you as is proposed in this application, will there not be some additional cost, because of the use of the trucks, to offset any claimed savings that you discussed in your previous testimony?

A. There will be a net saving—

Q. Well, now—

A. —to the railroad.

Q. Answer my question directly, please, Witness. Will there not be some additional expense that you do not presently have?

A. If the application is granted, we will have the expense of The Willett Company trucks which we do not have at the present time.

Q. All right.

A. That is true.

Q. Now, do you have with you here today any data, or any figures, that show in detail what that additional cost will be?

A. For The Willett Company trucks?

Q. Yes.

620 A. Around \$5,000.

Q. For what?

A. Per month.

Q. For the entire operation?

A. Approximately that, yes.

Q. Have you broken that down as to each of these operations, so that we can tell how much, for example, the additional cost of the truck operation would be between Fort Wayne and Kalamazoo, and each of the others in turn?

A. No, sir, I do not have that with me; but you can figure it.

Q. What?

A. I say, you can figure it out. I will give you the cost of the trucks, and you can figure it out.

Q. Do you have a copy of the contract here?

A. No.

Q. Does it set forth the matter in great detail?

A. Certainly.

Q. All right. Now with respect to the operation of the way-freight: That is the only train in connection with which you contend that there will be any reduction in working hours, is it not?

A. Well, no; I wouldn't say that, and I didn't testify to that. You would not let me testify to it as I recall it.

Q. Well, I did not recall that I had been able to stop you as to anything, Witness.

621 A. However, there is an intangible saving there, on through freight.

Q. Well, now, let us confine ourselves to the way-freight proposition. At the present time are they operating, like most of them do, on about a 15- or 16-hour schedule?

A. (No answer.)

Q. Or rather, not schedule, but actual operating time; I mean to say,

A. No, sir; I wouldn't say that they are running that high.

Q. How high does it run?

A. Oh, maybe from an hour to three hours over-time per day, or something of that sort.

Q. And that would make the total time how much?

A. The total time?

Q. Yes—so that we will have it in the record here.

A. Well, a day is normally eight hours, and it would run 10 or 11 hours, say, in some instances.

Q. Then do you want the Joint Board to understand, Witness, that in no instances and under no condition in the future, if this application is granted, there is ever going to be any overtime pay to any of the way-freight crews?

A. I certainly do not want them to understand that; no, sir.

Q. Thank you. At the present time is not your railroad interlining freight with other railroads?

A. Well, now, when you refer to interlining freight, do  
622 you mean interchanging freight? Is that what I understand you to say?

Q. Perhaps they have changed the term since I worked on a railroad. I assume they mean the same thing.

Exam. HARRISON. I think interchange is what you mean, Mr. Clardy.

A. Oh, we interchange freight; yes.

Mr. CLARDY. That may be correct, Mr. Examiner, but I prefer to use the term that I am familiar with, that I used to use.

Exam. HARRISON. That is perfectly all right, just so you do not get the wrong answer.

Mr. CLARDY. Pardon me, your Honor?

Exam. HARRISON. I say, perhaps you had better use the other term, or you may get the wrong answer.

Mr. CLARDY. I think the record will be clear.

The WITNESS. Well, if you mean interchanging freight and billing freight through on foreign railroads, we do that; yes, sir.

By Mr. CLARDY:

Q. And you do it right along, do you not?

A. Oh, yes.

Q. And you do that with railroads with which you are in competition, do you not?

A. Why, yes, sir; I guess that they would be competitive with us, on some of it.

Q. And you have not refused to interline with those railroads that are keenly competitive with you, up until the present time, have you?

A. We never have, to my knowledge; no, sir.

Q. No. But you are going to draw the line here, when it comes to using a motor carrier that is competitive with you, are you?

A. Well, we have no authority to do it, and far be it from me to suggest doing anything for which there is no authority. I do not have any authority to authorize any such thing as that, and there has never been any authority issued that I know anything about,

to interchange freight under a tariff arrangement with a motor carrier; although there has been, as I say, with other railroads.

Q. Well, you do not know of any statutory enactment that forbids that, do you?

A. No.

624 Q. What you meant was that thus far your superiors just simply have not elected to do that; that is correct, is it not?

A. Well, I do not know of any law against it. If they desire to do it, I suppose they can do it; or if they desire not to do it, I suppose they have the same right.

Q. Now, when you stated your figures with respect to a prospective saving, did you not have in mind the thought—or rather, did not you base those figures on the assumption that the figures which are set out on applicant's Exhibit No. 5 here would represent the average continuous monthly tonnage to be moved over these routes, if the application were granted?

A. No, sir.

Q. What figures were they that you had in mind, then, as to tonnage?

A. Well, I used an average figure of tonnage for the month of December, the tonnage for the month of December.

Q. 1941?

A. Yes.

Q. Well, then—

A. Let me finish.

Q. All right.

A. Now, we all know that the tonnage into Mackinaw City, Petoskey, and points like that up there, is much heavier in the summer months than it is in the month of December; so I would say,

625 therefore, that I expect this tonnage to be greater during the summer months than what I have shown on here.

Q. Well, my question was—

Mr. BARKELL. Just a moment, please, Mr. Clardy. Off the record.

(Discussion outside the record.)

Mr. BARKELL. Back on the record.

By Mr. CLARDY:

Q. What I am trying to get at is this, Witness: in making your estimates here you have taken the figures from applicant's exhibit No. 5 for that particular month, and comparable figures reached in the same way, from the same source, for the other months of the year; that is correct, is it not?

A. No, sir. This is an estimated figure—or rather, this is for the month of December only, the tonnage handled by the railroad for the month of December only.



Q. All right.

A. Now, then—

Q. Did you—pardon me. Go right ahead.

A. As I stated before, during the summer months I expect the tonnage will be greater.

Q. I understood you to say that.

A. Yes.

Q. But as to the tonnage for the summer months—did you have some actual figures before you when you sat down to figure out the car-mile savings, and the other savings which you mentioned?

A. I figured the savings on the month of December.

626 Q. On the basis of the month of December?

A. Yes.

Q. Well, then, Witness, you misunderstood my first question. I again ask you, now, in all kindness, if you will produce all of the data from which applicant's exhibit No. 5 was compiled, so that I may examine you on it?

A. No, sir; I will not furnish it to you.

Mr. CLARDY. That is all I have.

Mr. BARKELL. Are there any further questions of this witness?

Mr. HARRY YOCKEY. May we have a recess for just a moment, your Honor. There may be just a few further questions.

Mr. BARKELL. I would like to have Mr. Clardy finish up with his cross-examination before we recess.

Mr. CLARDY. I believe there will be only one further question that I would like to ask, your Honor. I will be very brief.

Mr. BARKELL. All right. Then we will take a short recess at this time.

(A short recess was taken.)

Mr. BARKELL. Come to order, please, gentlemen. I believe you have one other question, Mr. Clardy.

Mr. CLARDY. There are just one or two questions that I would like to ask.

Mr. BARKELL. One, or two?

Mr. CLARDY. Just one. I will promise you.

627 Mr. BARKELL. Just one?

Mr. CLARDY. Yes.

Mr. BARKELL. Very well.

By Mr. CLARDY:

Q. Witness, would you—or rather, would the railroad company which you represent, under any circumstances avail itself of the service of any common motor carrier operating over the routes in question, or any part of them, even though that service might be equal to or better than that which is proposed by the applicant in this proceeding?

Mr. HARRY YOCKEY. Now, I want to object to that if the Board please. He has already gone into that.

Mr. CLARDY. No; I have not.

Mr. BARKELL. I am not sure that that was covered on cross-examination. I think the witness may answer the question.

A. No, sir.

Mr. CLARDY. Thank you.

Mr. BARKELL. Have you any questions, Mr. King?

Mr. KING. Yes, your Honor; just one or two.

By Mr. KING:

Q. Mr. Christie, I believe you have stated that shipments moving over these routes under this proposed application will move under the tariffs of The Pennsylvania Railroad; is that correct?

A. Yes.

Q. I note that in applicant's exhibit No. 8, which gives the mileage between certain points, in each case the truck mile-  
628 ages exceed the rail mileage.

A. Yes.

Q. Now, will the tariffs that are published for this proposed service be based on the rail mileage or the truck mileage?

A. Rail.

Q. On the rail mileage?

A. Yes.

Q. And without any reference to the actual truck mileage that is traveled by the trucks of the applicant?

A. The applicant will not be named in the tariff, and there will not be anything about its trucks in the tariff.

Q. But the tariff will be based entirely on the rail mileage, you say?

A. Yes.

Q. Without any reference, or without any regard whatever to the actual truck mileage?

A. That is right.

Mr. KING. That is all.

Mr. BARKELL. Have you any further questions of the witness, Mr. Yockey?

Mr. HARRY YOCKEY. Are there any further questions from the bench?

Mr. EGGERS. I have just one.

By Mr. EGGERS:

Q. Mr. Christie, just to clear up this particular matter in  
629 my own mind, going back to one of the original questions directed to you by Mr. Clardy: in the case of a movement originating at Fort Wayne, destined for Traverse City, would there be any difference between how that freight would arrive at

Cadillac, Michigan, under the proposed set-up, and the way it arrives at Cadillac at the present time?

A. Yes, sir; there will be a difference, because we can load freight from Fort Wayne to Cadillac, which will be this truck freight, and the truck will get it out of the car, and truck it to the point north; whereas—

Q. Out of the car where?

A. At Cadillac.

Q. Oh.

A. Whereas, under the present conditions, under the present operation, why, we load that freight from Fort Wayne to Grand Rapids, and Grand Rapids is a transfer station, a large transfer station, and there we transfer the freight into peddler cars at Grand Rapids, and send it on to wherever it is going.

Q. Well, now, I am not quite sure that that does clear up the question that I had in my mind. Under the proposed system, as you have outlined it, is it a fact that freight moving entirely by rail to Cadillac would arrive there sooner under the proposed system, than it does at the present time?

A. Yes.

Q. That is correct, is it?

A. Yes, sir.

630 Q. Is there any particular reason for that?

A. Yes.

Q. What?

A. Because when we load it now to Grand Rapids—as I say, Grand Rapids is our transfer station, and Cadillac is not. It is not equipped to transfer freight, so we load it on Grand Rapids, and from there it is loaded into a way-car going up as far as Cadillac, and it is loaded into another way-car going up to the Traverse City branch, and another way-car up north of Cadillac; and those way-cars are handled on a through freight, two of them, up as far as Cadillac, and then they go on locals, while this one out of Grand Rapids, up as far as Cadillac would go on a local freight train. Now, by routing the freight from Fort Wayne to Cadillac, we would eliminate the transfer at Grand Rapids, and we would also eliminate the delay, due to the tri-weekly service that we have up in that territory north of Grand Rapids.

Q. Now, do you understand that I am only talking about getting the freight into Cadillac?

A. (No answer.)

Q. How it leaves Cadillac for Traverse City, I am not interested, just at this moment.

A. I have been talking about that.

Q. Well—

A. I will confine myself to Cadillac, then.

631 Q. Yes. As I understand it, then, under the proposed system the freight will arrive in Cadillac by rail sooner than it arrives under the present system, at the present time; is that correct?

A. Yes, sir.

Q. All right. Now, would you repeat once again, for my own information, please, why you cannot use that system at the present time to get the freight into Cadillac at that earlier time?

A. For the reason that at the present time we load all freight going north of Grand Rapids, on Grand Rapids, and Grand Rapids makes cars going to various points north—that is, way-cars, I am speaking of now.

Q. Yes.

A. And we could not load the freight on Cadillac, because we are not equipped at Cadillac, as I stated before, that is, Cadillac is not equipped as a transfer station; and even though at the present time we loaded it on Cadillac, we would still have cars that would have to move out of Grand Rapids.

Mr. CLARDY. Well, now, your Honor, he has got me more confused than ever.

Mr. BARKELL. Yes; I think the record is somewhat confused. Let us consider Cadillac as the destination point.

The WITNESS. Supposing we go off the record for a minute, and

I will try to explain it to you and get it clear, and then  
632 we can go back on the record.

Mr. BARKELL. That will probably save the Reporter a lot of unnecessary work.

Mr. EGGERS. All right.

(Discussion outside the record.)

Mr. BARKELL. Now, back on the record.

Mr. EGGERS. Let me ask you one more question.

By Mr. EGGERS:

Q. Have you made a study, Mr. Christie, so that you would be able to tell us why it would not be practical for The Pennsylvania Railroad to have a certificate granted in this application which would have this old restriction in it—and when I refer to the “old restriction,” I have in mind the restriction that is in some of the other certificates, that requires a prior or subsequent movement by rail?

A. Yes.

Q. You have made a study of that, have you?

A. I have made a study of that; yes, sir; and it will affect us.

Q. Would you be able to elaborate on that just a little bit, although not too much in detail? To what extent would it affect you?

A. It would amount to about one-half of one per cent.

Q. One-half of one per cent—

A. Of the traffic. Now, that is based on a three-day study, you understand.

633 Q. As I understand it, then, it would affect one-half of one per cent of the traffic—

A. Over the entire seven routes.

Q. Over the entire seven routes?

A. Yes.

Q. It would affect you to that extent if the Commission should put a restriction into the certificate, if this application is granted, requiring a prior or subsequent movement by rail?

A. Yes, sir.

Mr. EGGERS. All right. Thank you. I believe that is all I have.

Mr. BARKELL. Now, Mr. Yockey, do you have any further questions of the witness?

Mr. HARRY YOCKEY. Nothing further.

Mr. BARKELL. You may be excused.

(Witness excused.)

Mr. BARKELL. Have you anything further at this time, Mr. Yockey?

Mr. HARRY YOCKEY. The applicant rests.

Mr. BARKELL. The Joint Board will entertain a motion, gentlemen.

Mr. HARRY YOCKEY. If the Board please, we would like to know what you have in mind with respect to going forward with the protestants' case. We would like to go ahead tonight, or in the morning.

634 Mr. BARKELL. We are getting to that matter right now,

Mr. Yockey. The Board will entertain a motion at this time from any of counsel for protestants regarding proceeding further in this case at this time.

Mr. ANDERSON. I desire to move, if your Honor please, that this case be now continued, to be reset, at a time convenient to the members of the Joint Board and the Examiner of the Interstate Commerce Commission, and at a place to be fixed to give the protestants here an opportunity to prepare to put on their case, which we are not prepared to do at this time, principally because we did not know how long it would take to put in the case for the applicant. It has been suggested in our informal discussion of the matter, that the preferable place for holding the next hearing would be at Lansing, Michigan.

Mr. CLARDY. I would like to point out, if your Honors please, in support of that motion, that while we did enter into certain stipulations today, that saved a great deal of time, still it is now almost



5:30, and we have really put in two rather full days, especially in view of the fact that we started this hearing at 8:30 this morning. Therefore, while as I say we did expedite the hearing substantially by entering into those stipulations, nevertheless, it is obvious that it will have to go over. I understand that the Joint Board has no authority to reset a case for any definite time and place at this time.

635 Mr. BARKELL. No.

Mr. CLARDY. We would like to ask, however, that the Joint Board and the Examiner indicate to the Commission our desire to have the matter reset at as early a date as possible, that will not conflict with other engagements of the Joint Board, the Examiner, or any of counsel.

Mr. BARKELL. Have you any comment, Mr. Yockey?

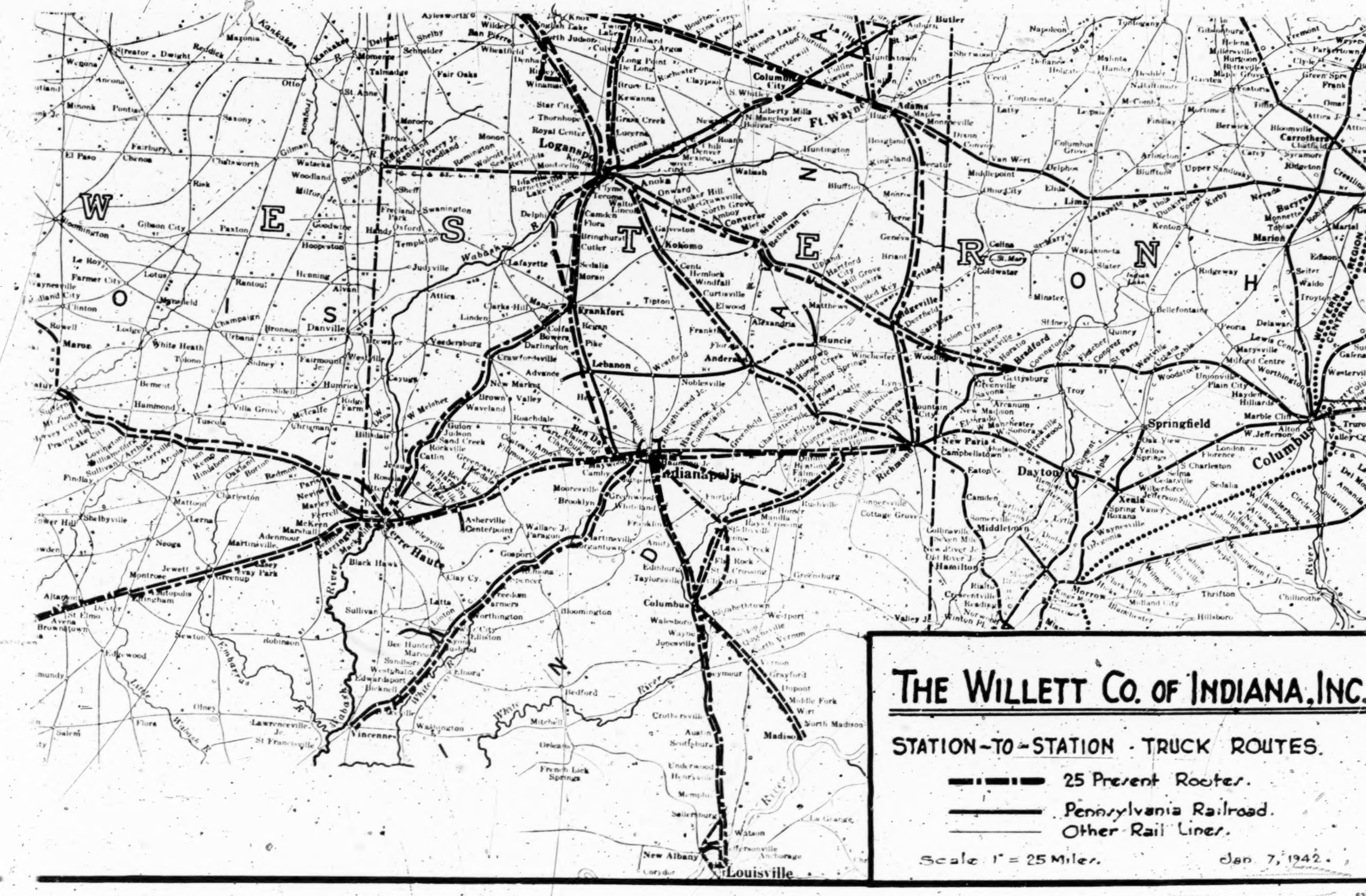
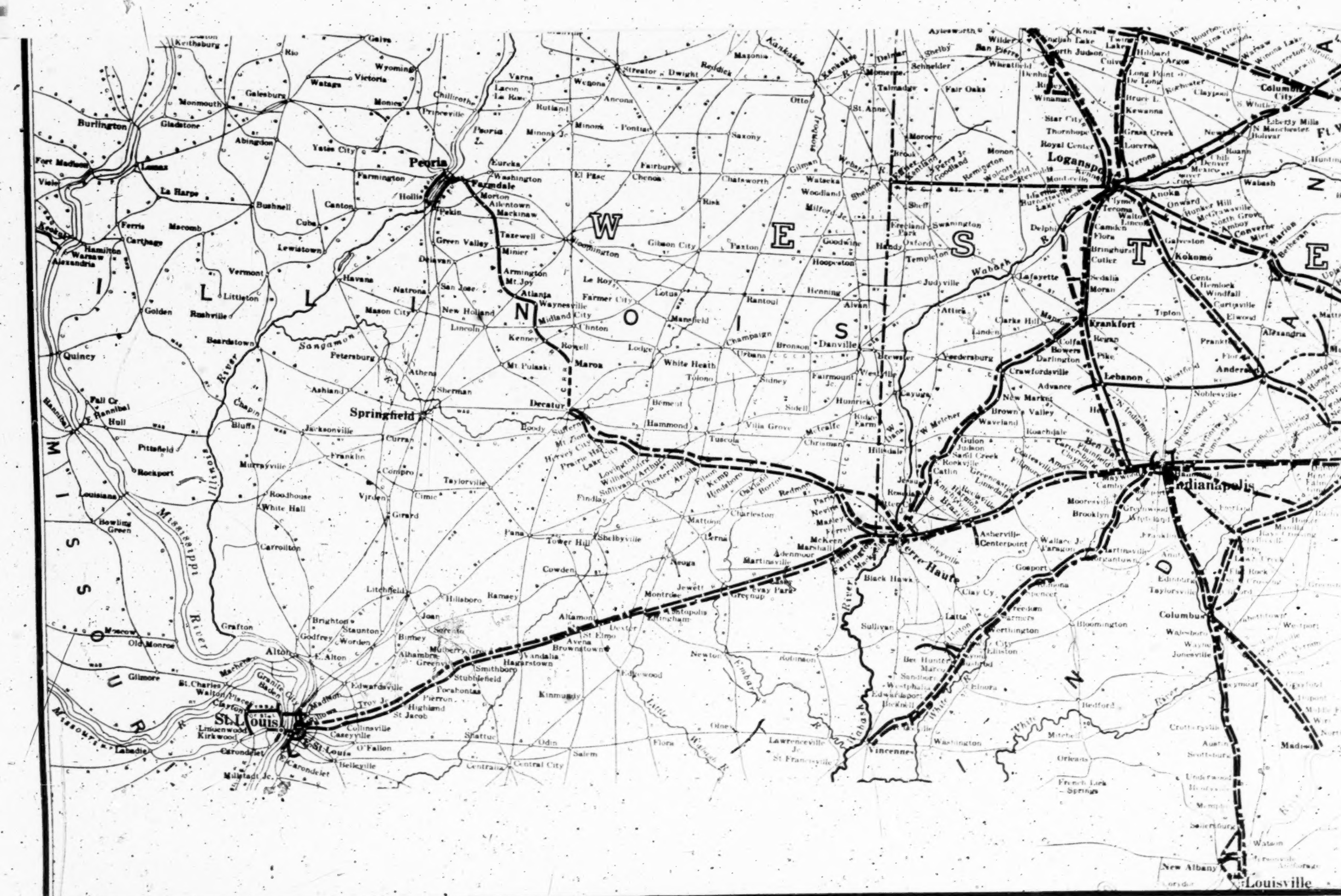
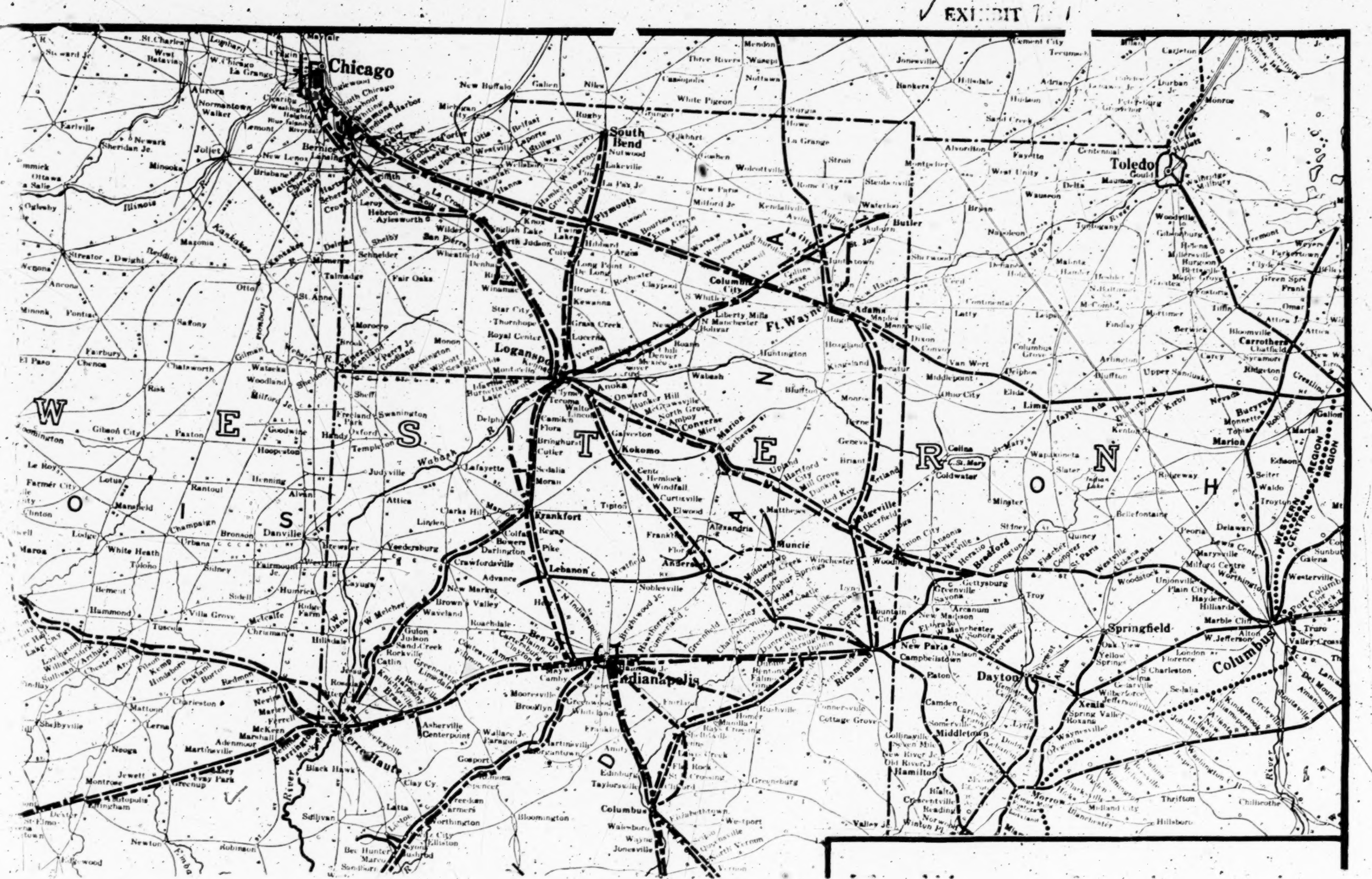
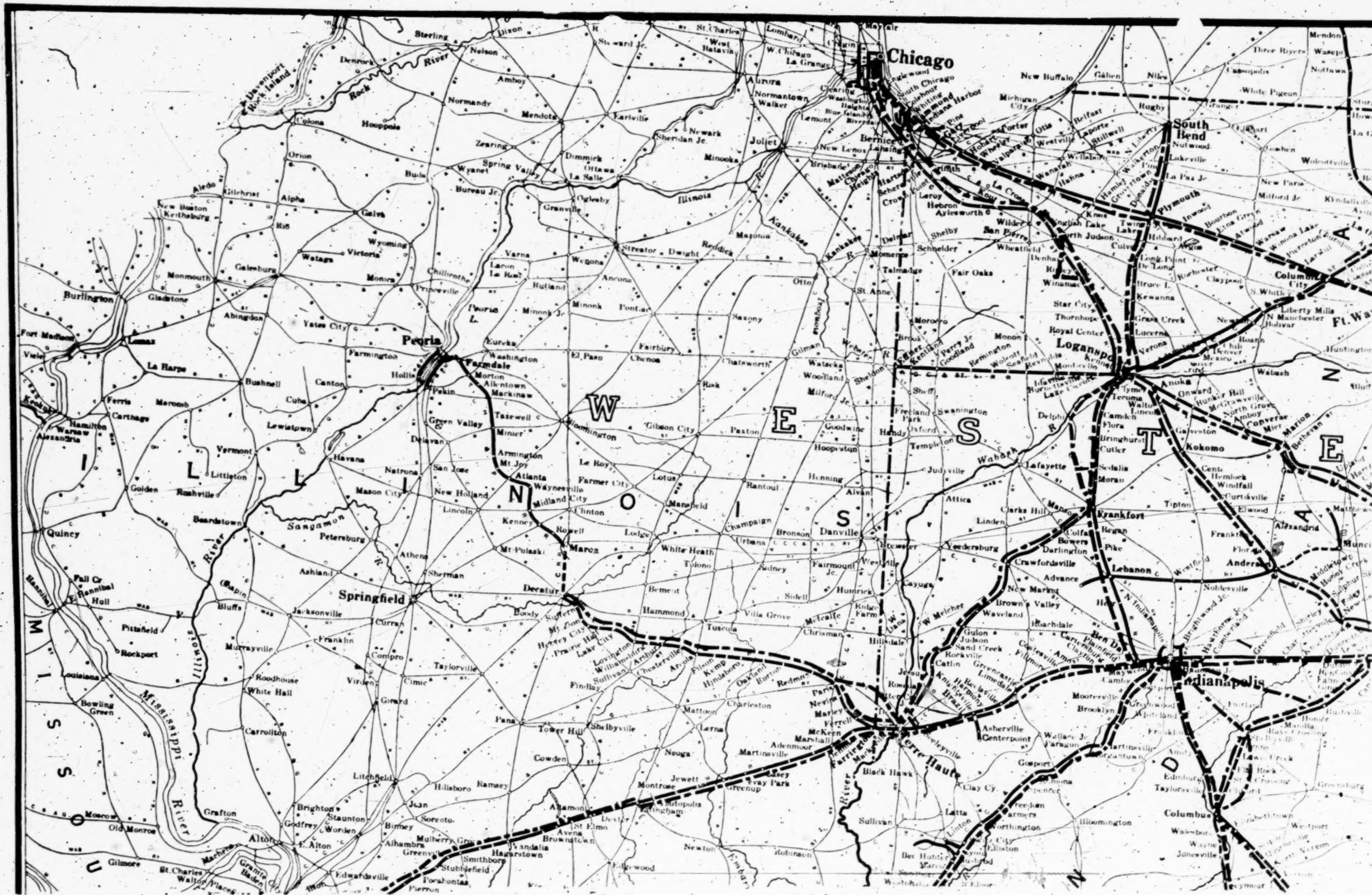
Mr. HARRY YOCKEY. We naturally would have liked very much to have the case concluded at this particular time, but I am bound to say, and I know that my associates will agree with me, that all counsel are compelled from time to time to respect the desires or necessities of other counsel, and therefore, if these gentlemen, counsel for the protestants in this proceeding, are not prepared to go forward with their case at this time, why, we will not interpose any objection. As far as we are concerned, we were perfectly willing, and we expected to work tonight, and tomorrow, but since it now develops that these gentlemen are not ready to go ahead, that, of course, cannot be done. However, we would like to have the case set down for further hearing at the very earliest possible date, because it is most vital to us that we get this case concluded. We are anxious to get done with it, so we can get our certificate, and get this proposed operation into effect.

Mr. BARKELL. The motion of counsel for protestants for an adjournment of this matter at this time, to a time and place  
636 to be fixed by the Interstate Commerce Commission, is granted. You understand, of course, gentlemen, that the Joint Board members do not designate the time or place of an adjourned hearing. That will be for the Interstate Commerce Commission.

Mr. CLARDY. Thank you. We appreciate that.

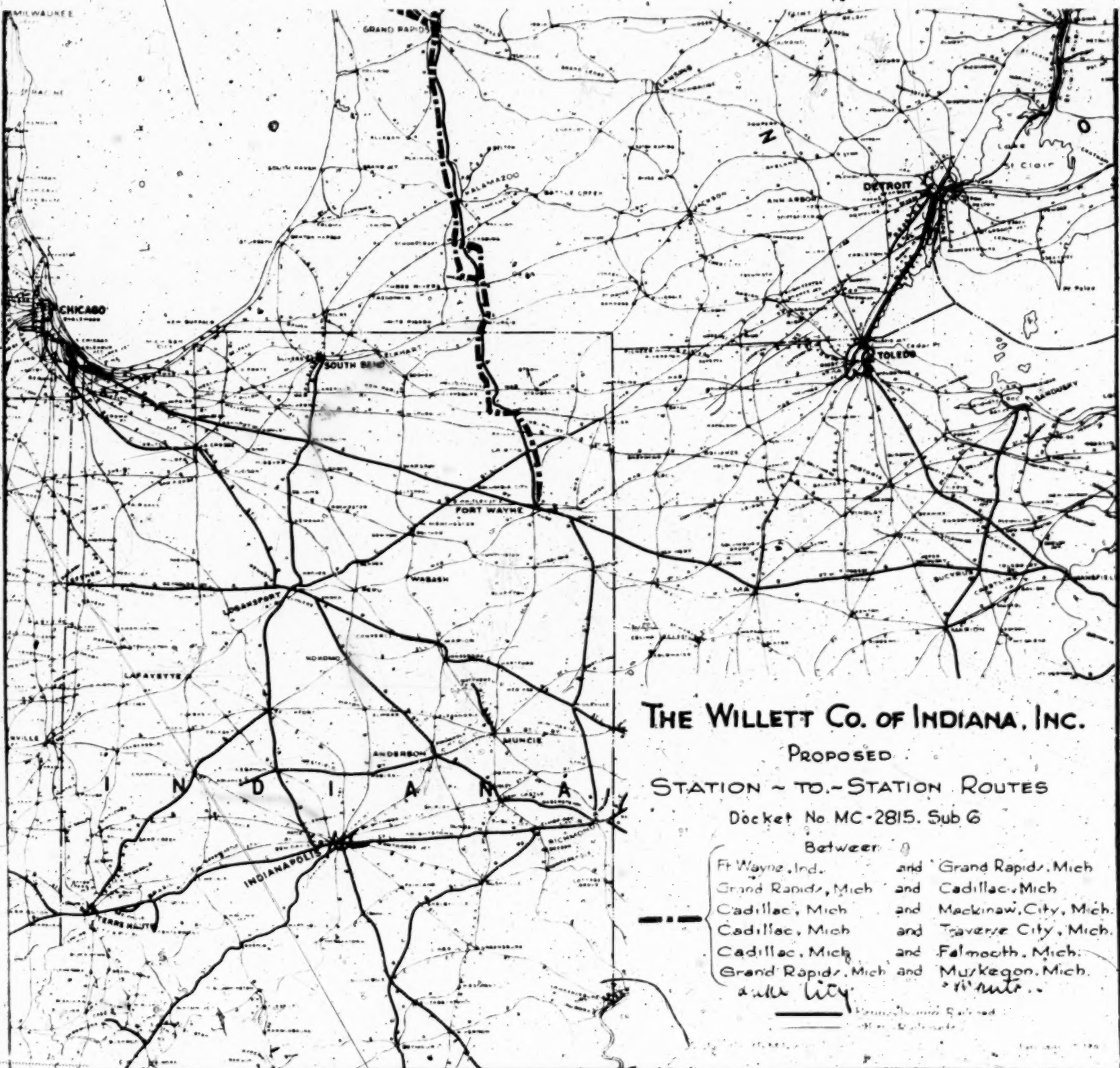
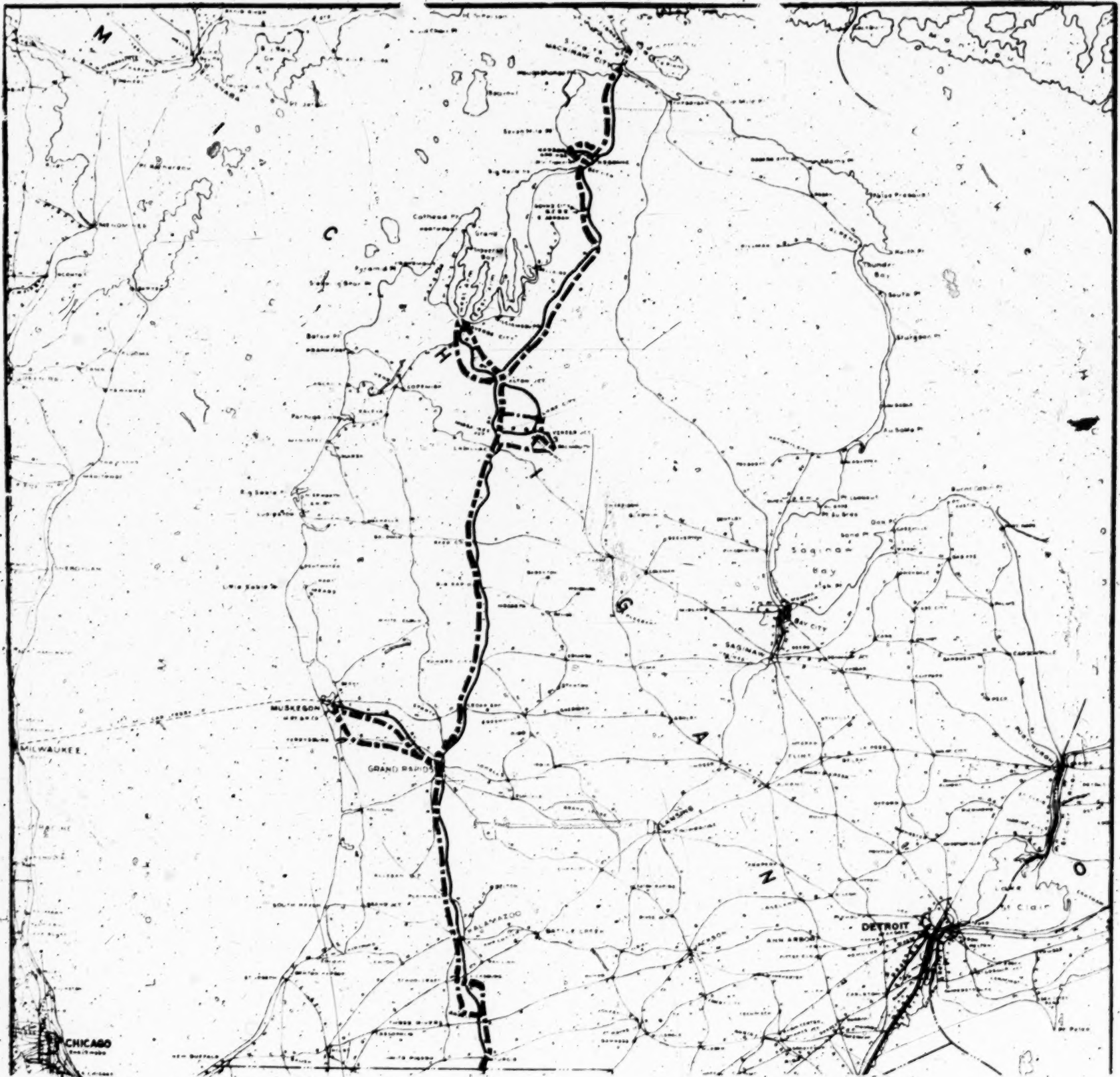
(At 5:20 p. m., February 11, 1942, hearing adjourned to a time and place to be fixed by the Commission.)





**THE WILLETT CO. OF INDIANA, INC.**  
**STATION-TO-STATION TRUCK ROUTES.**  
 - - - - - 25 Percent Route.  
 ———— Pennsylvania Railroad.  
 ———— Other Rail Lines.  
 Scale 1" = 25 Miles. Jan. 7, 1942.





636-C

*Exhibit No. 3*

MC 2815—Sub 6

THE WILLETT COMPANY OF INDIANA, INC., PRESENT ROUTES IN  
OPERATION

Routes covered by Grandfather Application MC 2815:

Logansport, Indiana, to Columbia City, Indiana.  
Fort Wayne, Indiana, to Plymouth, Indiana.  
Fort Wayne, Indiana, to Butler, Indiana.  
Fort Wayne, Indiana, to Monroeville, Ind. (Ind.-Ohio State  
Line).

Routes covered by Application MC 2815 BMC 10:

Columbus, Indiana, to Madison, Indiana.  
Effingham, Illinois, to East St. Louis, Illinois.  
Terre Haute, Indiana, to Effingham, Illinois.  
Indianapolis, Indiana, to Louisville, Kentucky.  
Indianapolis, Indiana, to Terre Haute, Indiana.  
Logansport, Indiana, to Union City, Indiana.

Routes covered by Application MC 2815 Sub 1:

Fort Wayne, Indiana, to Richmond, Indiana.  
Logansport, Indiana, to Richmond, Indiana.  
Indianapolis, Indiana, to Richmond, Indiana.  
Columbus, Indiana, to Madison, Indiana (Mail and Express  
only).

Routes covered by Application MC 2815 Sub 2:

Indianapolis, Indiana, to Logansport, Indiana.  
Indianapolis, Indiana, to Vincennes, Indiana.

Routes covered by Application MC 2815 Sub 3: Union City, In-  
diana, to Bradford, Ohio.

Routes covered by Application MC 2815 Sub 4:

Chicago, Illinois, to Logansport, Indiana.  
Chicago, Illinois, to Plymouth, Indiana.  
Terre Haute, Indiana, to Decatur, Illinois.

Routes covered by Application MC 2815 Sub 5:

Logansport, Indiana, to Effner, Indiana.  
Logansport, Indiana, to South Bend, Indiana.  
Terre Haute, Indiana, to Frankfort, Indiana.  
Columbus, Indiana, to Cambridge City, Indiana.  
Indianapolis, Indiana, to Shelbyville, Indiana.  
Indianapolis, Indiana, to Rushville, Indiana.

Proposed routes covered by Application MC 2815 Sub 6:

Fort Wayne, Indiana, to Grand Rapids, Michigan.  
Grand Rapids, Michigan, to Cadillac, Michigan.  
Cadillac, Michigan, to Mackinaw City, Michigan.



Cadillac, Michigan, to Traverse City, Michigan.

Cadillac, Michigan, to Falmouth, Michigan.

Lake City, Michigan, to Manton, Michigan.

Grand Rapids, Michigan, to Muskegon, Michigan.

636-D

*Exhibit No. 4.*

MC 2815—Sub 6.

THE WILLETT COMPANY OF INDIANA, INC.

Proposed Schedule of Routes in Hearing

Leave Ft. Wayne, Ind. 9:00 A. M., arrive Kalamazoo, Mich.  
4:00 P. M.

Leave Kalamazoo, Mich. 11:00 A. M., arrive Ft. Wayne, Ind.  
4:00 P. M.

Leave Kalamazoo, Mich. 4:00 P. M., arrive Grand Rapids, Mich.  
7:15 P. M.

Leave Grand Rapids, Mich. 11:30 A. M., arrive Kalamazoo,  
Mich. 2:40 P. M.

Leave Grand Rapids, Mich. 11:30 A. M., arrive Cadillac, Mich.  
5:30 P. M.

Leave Cadillac, Mich., 1:30 P. M., arrive Grand Rapids, Mich.  
7:00 P. M.

Leave Grand Rapids, Mich. 11:30 A. M., arrive Muskegon,  
Mich. 2:00 P. M.

Leave Muskegon, Mich. 5:00 P. M., arrive Grand Rapids, Mich.  
7:00 P. M.

Leave Traverse City, Mich. 12:30 P. M., arrive Cadillac, Mich.  
3:00 P. M.

Leave Cadillac, Mich. 4:00 P. M., arrive Traverse City, Mich.  
8:00 P. M.

Leave Petoskey, Mich. 10:00 A. M., arrive Cadillac, Mich.  
3:00 P. M.

Leave Cadillac, Mich. 4:00 P. M., arrive Petoskey, Mich. 9:30  
P. M.

Leave Mackinaw City, Mich. 4:00 P. M. arrive Petoskey, Mich.  
7:00 P. M.

Leave Petoskey, Mich., 10:00 P. M., arrive Mackinaw City,  
Mich. 1:00 A. M.



636-E

*Exhibit No. 5*

MC 2815—Sub 6

## THE WILLETT COMPANY OF INDIANA, INC.

## PENNSYLVANIA RAILROAD TONNAGE TO BE HANDLED BY APPLICANT

Route:	Monthly tonnage (pounds)
Fort Wayne, Ind.-Kalamazoo, Mich.....	718,770
Grand Rapids, Mich.-Kalamazoo, Mich.....	217,100
Grand Rapids, Mich.-Cadillac, Mich.....	854,620
Grand Rapids, Mich.-Muskegon, Mich.....	831,000
Cadillac, Mich.-Traverse City, Mich.....	280,020
Cadillac, Mich.-Petoskey, Mich.....	225,200
Petoskey, Mich.-Mackinaw City, Mich.....	273,130
Total.....	3,400,020

## Exhibit No. 6.

THE WILLETT COMPANY OF INDIANA, INC.

MC 2815—Sub. 6

## PROPOSED RAIL-TRUCK SCHEDULE AS COMPARED WITH ALL-RAIL SCHEDULE

From—	To—	Via	Date shipped	Date transferred	Date arrived destination	De-livery days
New York, N. Y.	Sturgis, Mich.	All rail	Jan. 26	Ft. Wayne, Ind. 1-28	1-29	3
Chicago, Ill.	Sheddyville, Mich.	Rail truck	Jan. 26	Ft. Wayne, Ind. 1-28	1-28	2
Rockford, Mich.	Baltimore, Md.	All rail	Jan. 26	Grd. Rapids, M. 1-27	1-28	2
Ft. Wayne, Ind.	Big Rapids, Mich.	Rail truck	Jan. 26	Grd. Rapids, M. 1-27	1-27	1
Reed City, Mich.	Chicago, Ill.	All rail	Jan. 26	Grd. Rapids, M. 1-26	1-30	4
Cincinnati, Ohio	Traverse City, M.	Rail truck	Jan. 26	Grd. Rapids, M. 1-27	1-29	3
Muskegon, Mich.	Ft. Wayne, Ind.	All rail	Jan. 26	Grd. Rapids, M. 1-26	1-28	3
South Bend, Ind.	Kalamazoo, Mich.	Rail truck	Jan. 26	Grd. Rapids, M. 1-27	1-27	1
Morley, Mich.	Rome City, Ind.	All rail	Jan. 26	Grd. Rapids, M. 1-28	1-30	4
Middletown, Ind.	Mancelona, Mich.	Rail truck	Jan. 26	Grd. Rapids, M. 1-27	1-28	2
636-G Philadelphia, Pa.	Petoskey, Mich.	All rail	Jan. 26	Grd. Rapids, M. 1-27	1-28	2
Kendallville, Ind.	St. Louis, Mo.	Rail truck	Jan. 26	Grd. Rapids, M. 1-27	1-29	3
Cleveland, Ohio	Muskegon, Mich.	All rail	Jan. 26	Grd. Rapids, M. 1-27	1-30	4
Plainwell, Mich.	Baltimore, Md.	Rail-truck	Jan. 26	Grd. Rapids, M. 1-26	1-29	3
Chicago, Ill.	Pellston, Mich.	All rail	Jan. 26	Grd. Rapids, M. 1-27	1-30	4
Pittsburgh, Pa.	Vicksburg, Mich.	Rail-truck	Jan. 26	Grd. Rapids, M. 1-27	1-28	2
		All rail	Jan. 26	Ft. Wayne, Ind. 1-28	1-29	3

Harbor, Mich.	Chicago, Ill.	Rail-truck	Jan. 26	Ft. Wayne, Ind., 1-28	Ft. Wayne, Ind., 1-28	1-28
Kendallville, Ind.	Falmouth, Mich.	All-rail	Jan. 26	Potoskey, Mich., 1-27	Grd. Rapids, M., 1-27	1-30
St. Louis, Mo.	Ravenna, Mich.	Rail-truck	Jan. 26	Kalamazoo, M., 1-27	Cadillac, M., 1-28	1-30
Muskegon, Mich.	Washington, D. C.	All-rail	Jan. 26	Ft. Wayne, Ind., 1-28	Cadillac, M., 1-27	1-27
630-H Traverse City, Mich.	Chicago, Ill.	Rail-truck	Jan. 26	Ft. Wayne, Ind., 1-28	Grd. Rapids, M., 1-29	1-29
Wayland, Mich.	Logansport, Ind.	All-rail	Jan. 26	Cadillac, Mich., 1-26	Grd. Rapids, M., 1-29	1-30
Lagrange, Ind.	Cleveland, O.	Rail-truck	Jan. 26	Grd. Rapids, M., 1-27	Grd. Rapids, M., 1-28	1-29
St. Louis, Mo.	Wayland, Mich.	All-rail	Jan. 26	Ft. Wayne, Ind., 1-27	Chicago, Ill., 1-28	1-28
Cincinnati, O.	Howard City, Mich.	Rail-truck	Jan. 26	Ft. Wayne, Ind., 1-28	Columbus, O., 1-27	1-28
Traverse City, Mich.	Toledo, O.	All-rail	Jan. 26	Grd. Rapids, M., 1-28	Kalamazoo, M., 1-29	1-30
Potoskey, Mich.	Cincinnati, O.	Rail-truck	Jan. 26	Grd. Rapids, M., 1-28	Grd. Rapids, M., 1-29	1-29
St. Louis, Mo.	Lake City, Mich.	All-rail	Jan. 26	Grd. Rapids, M., 1-28	Ft. Wayne, Ind., 1-29	1-31
Mackinaw City, Mich.	Columbus, O.	Rail-truck	Jan. 26	Cadillac, Mich., 1-26	Ft. Wayne, Ind., 1-27	1-29
			Jan. 26	Cadillac, Mich., 1-26	Ft. Wayne, Ind., 1-27	1-29
			Jan. 26	Ft. Wayne, Ind., 1-28	Grd. Rapids, M., 1-29	1-31
			Jan. 26	Ft. Wayne, Ind., 1-28	Cadillac, Mich., 1-29	1-29
			Jan. 26	Potoskey, Mich., 1-27	Grd. Rapids, M., 1-29	1-31
			Jan. 26	Potoskey, Mich., 1-26	Cadillac, Mich., 1-27	1-29

## Application MC 2815 Sub No. 6 of

## THE WILLETT COMPANY OF INDIANA, INC.

## PROPOSED ROUTES

Between Fort Wayne, Indiana and Grand Rapids, Michigan: From Fort Wayne, over Indiana Highway 3 to Kendallville, Indiana, thence over U. S. Highway 6 to junction with Indiana Highway 9; thence over Indiana Highway 9 to junction with Michigan Highway 78 at the Indiana-Michigan State Line; thence over Michigan Highway 78 to junction with Michigan Highway 86, near Nottawa; thence over Michigan Highway 86 to Nottawa; thence over County Roads, through Mendon and Vicksburg to junction with U. S. Highway 131 at Schoolcraft; thence over U. S. Highway 131 to Grand Rapids and return over the same route. Intermediate points to be served: Wallen, Huntertown, La Otto, Avilla, Kendallville, Rome City, Wolcottville, LaGrange and Howe, all in Indiana, and Sturgis, Nottawa, Mendon, Vicksburg, Kalamazoo, County Spur, Plainwell, Martin, Shelbyville, Wayland, and Moline, all in Michigan. No off-route points to be served. From Kendallville, Indiana, over County Road to Rome City, Indiana. No intermediate or off-route points to be served. From Nottawa, Michigan, over Michigan Highway 86 to Three Rivers; thence over U. S. Highway 131 to Schoolcraft, Michigan. No intermediate or off-route points to be served.

Between Grand Rapids, Michigan, and Cadillac, Michigan: From Grand Rapids over U. S. Highway 131 to Cadillac and return over the same route. Intermediate points to be served: Rockford, Cedar Springs, Sand Lake, Pierson, Howard City, Morley, Stanwood, Big Rapids, Paris, Reed City, Orono, Ashton, and LeRoy, Michigan. Off-route point to be served: Tustin. From Grand Rapids over County Roads, through Comstock Park and Belmont to junction with U. S. Highway 131 north of Grand Rapids. Intermediate points to be served: Belmont. No off-route points to be served.

636-J Between Cadillac, Michigan, and Mackinaw City, Michigan: From Cadillac over U. S. Highway 131 to Petoskey, thence over U. S. Highway 31 to Mackinaw City, and return over the same route. Intermediate points to be served: Manton, Fife Lake, Kalkaska, Antrim, Mancelona, Albq, Boyne Falls, Petoskey, Bay View, Conway, Oden, Alanson, Brutus, Pellston, Levering, and Carp Lake, Michigan. Off-route points to be served: South Boardman, Elmira, and Walloon Lake. From the June-

tion of U. S. Highway 31 and Michigan Highway 131 near Kego-  
mic, thence over Michigan Highway 131 to Harbor Springs,  
thence over said Highway and county roads to Conway. Inter-  
mediate points to be served: Kego-mic, Wequetonsing, and Harbor  
Springs.

Between Cadillac, Michigan, and Traverse City, Michigan:  
From Cadillac over U. S. Highway 131 to Walton, thence over  
county roads to Summit City, thence over County Road to junc-  
tion with Michigan Highway 113, thence over Michigan High-  
way 113 to Kingsley, thence over County Road 611 to Mayfield  
and return over the same route to Kingsley, thence over Michigan  
Highway 113 to junction with Michigan Highway 37, thence over  
Michigan Highway 37 to the junction with U. S. Highway 31,  
thence over U. S. Highway 31 to Traverse City, and return over  
the same route. Intermediate points to be served: Manton, Wal-  
ton, Summit City, Kingsley, and Mayfield. No off-route points  
to be served. From Walton over Michigan Highway 113 to junc-  
tion with Michigan Highway 37, thence over Michigan Highway  
37 to junction with U. S. Highway 31, thence over U. S. Highway  
31 to Traverse City. No intermediate or off-route points to be  
served.

Between Cadillac, Michigan, and Falmouth, Michigan: From  
Cadillac over Michigan Highway 55 to Lake City, thence over  
said Highway and county roads to Falmouth, and return over the  
same route. Intermediate point to be served: Lake City. No  
off-route points to be served. From Cadillac, over Michigan  
Highway 55 and County Roads, through Lucas to Falmouth. No  
intermediate or off-route points to be served.

636-K Between Grand Rapids, Michigan, and Muskegon, Michi-  
gan: From Grand Rapids over U. S. Highway 16 to Coopers-  
ville, thence over County Roads, through Conklin, Ravenna, and  
Sullivan to junction with Michigan Highway 46, thence over  
Michigan Highway 46 to junction with U. S. Highway 31, thence  
over U. S. Highway 31 to Muskegon, and return over the same  
route. Intermediate points to be served: Ravenna and Conklin.  
No off-route points to be served. From Grand Rapids to Muskegon  
over U. S. Highway 16. No intermediate or off-route points to  
be served.

Between Lake City, Michigan, and Manton, Michigan: From  
Lake City over Michigan Highway 66 to its junction with Michi-  
gan Highway 42, thence over Michigan Highway 42 to Manton  
and return over the same route. No intermediate points to be  
served. No off-route points to be served.



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I. C. C. ET AL. VS. HARRY A. PARKER ET AL.

636-L

Exhibit No. 8

MC 2815—Sub 6

THE WILLETT COMPANY OF INDIANA, INC.

Highway Mileage on Proposed Routes as Compared to Rail  
Mileage

Route	Truck mileage	Rail mileage
Fort Wayne, Ind.-Kalamazoo, Mich.	110.1	93.4
Grand Rapids, Mich.-Kalamazoo, Mich.	58.9	48.6
Grand Rapids, Mich.-Cadillac, Mich.	105.6	97.7
Cadillac, Mich.-Traverse City, Mich., via Lake City and Falmouth.	87.9	47.3
Grand Rapids, Mich.-Muskegon, Mich.	53.5	39.7
Cadillac, Mich.-Petoskey, Mich.	104.0	93.0
Petoskey, Mich.-Mackinaw City, Mich.	49.9	35.0

636-M

Exhibit No. 9

MC 2815—Sub 6

THE WILLETT COMPANY OF INDIANA, INC. EQUIPMENT LIST

## TRACTORS

Unit no.	Make	Year	Capacity
608	GMC	1935	1½ tons
616	International	1937	1½ tons
617	International	1937	1½ tons
618	International	1937	1½ tons
622	International	1940	1½ tons
623	International	1940	1½ tons
624	GMC	1940	1½ tons
625	GMC	1940	1½ tons
626	GMC	1940	1½ tons
627	International	1940	1½ tons
628	International	1940	1½ tons
629	International	1940	1½ tons
630	Chevrolet	1940	1½ tons
631	Chevrolet	1940	1½ tons
632	Chevrolet	1941	1½ tons
633	Chevrolet	1941	1½ tons
634	GMC	1941	1½ tons
635	GMC	1941	1½ tons
636	GMC	1941	1½ tons
637	GMC	1941	1½ tons
644	International	1941	1½ tons
645	International	1941	1½ tons
646	International	1941	1½ tons
647	International	1941	1½ tons
648	International	1941	1½ tons
649	GMC	1941	1½ tons
650	GMC	1941	1½ tons
651	GMC	1941	1½ tons
652	GMC	1941	1½ tons
653	GMC	1941	1½ tons
679	GMC	1941	1½ tons
680	GMC	1941	1½ tons
681	GMC	1941	1½ tons
682	GMC	1941	1½ tons
683	GMC	1941	1½ tons
684	GMC	1941	1½ tons
685	GMC	1941	1½ tons
686	GMC	1941	1½ tons
687	GMC	1941	1½ tons
688	GMC	1941	1½ tons
689	GMC	1941	1½ tons

636-O

Exhibit No. 10

MC 2815—Sub 6

## THE WILLETT COMPANY OF INDIANA, INC., EQUIPMENT LIST

## TRAILERS

Unit No	Make	Year	Capacity
354	GMC	1935	3 tons
355	GMC	1935	3 tons
368	Trailmobile	1937	5 tons
369	Trailmobile	1937	5 tons
370	Trailmobile	1937	5 tons
371	Trailmobile	1937	5 tons
372	Trailmobile	1937	5 tons
373	Trailmobile	1940	5 tons
374	Trailmobile	1940	5 tons
375	Trailmobile	1940	5 tons
376	Trailmobile	1940	5 tons
377	Trailmobile	1940	5 tons
378	Trailmobile	1940	5 tons
379	Trailmobile	1940	5 tons
380	Trailmobile	1940	5 tons
381	Trailmobile	1940	5 tons
382	Trailmobile	1940	5 tons
383	Trailmobile	1941	5 tons
384	Trailmobile	1941	5 tons
385	Trailmobile	1941	5 tons
386	Trailmobile	1941	5 tons
387	Trailmobile	1941	5 tons
388	Trailmobile	1941	5 tons
389	Trailmobile	1941	5 tons
390	Trailmobile	1941	5 tons
391	Trailmobile	1941	5 tons
392	Trailmobile	1941	5 tons
393	Trailmobile	1941	5 tons
394	Trailmobile	1941	5 tons
636 P 395	GMC	1935	3 tons
396	Kingham	1941	5 tons
397	Kingham	1941	5 tons
398	Kingham	1941	5 tons
399	Kingham	1941	5 tons
400	Kingham	1941	5 tons
401	Kingham	1941	5 tons
402	Kingham	1941	5 tons
403	Kingham	1941	5 tons
404	Kingham	1941	5 tons
405	Kingham	1941	5 tons
406	Kingham	1941	5 tons
407	Kingham	1941	5 tons
408	Kingham	1941	5 tons

Exhibit No. 11

MC 2815-Sub 6

THE WILLETT COMPANY OF INDIANA, INC.

636-Q

Filed with	Kind of coverage	Insurer	Policy No.	P. L. limits	P. D. limits	Cargo limits	Expiration
I. C. C.	P. L. & P. D.	Aetna	3 JF 79	\$5,107,000.00	\$1,000.00		7/1/42.
Illinois & Indiana	Cargo.	Standard	IMT 55574			\$12,000.00	Continuous.
	P. L. & P. D.	Aetna	4 J8 78	5,10,000.00	5,000.00		7/1/42.
	P. L. & P. D.	Aetna	27 JF 90	5,10,000.00	1,000.00		7/1/42.
Kentucky & Ohio	Cargo.	Standard	IMT 55574			2575,000.00	Continuous.
	P. L. & P. D.	Aetna	34 J8 72	5,15,000.00	1,000.00		1/1/43.
	P. L. & P. D.	standard	4 J8 78	5,10,000.00	1,000.00		7/1/42.
Michigan	Cargo.	Aetna	IMT 55574			2575,000.00	Continuous.
	P. L. & P. D.	Standard	IMT 55574	10/20,000.00	5,000.00	2575,000.00	Continuous.

1 No cargo required in Illinois on Interstate &amp; Line Haul Operations.

2 Cargo certificate filed under Standard Fire Insurance Co. Policy IMT 55574 on Feb. 20, 1940.

636-R

## Exhibit No. 12

## THE WILLETT COMPANY OF INDIANA, INC.

303 West Polk Street

## GENERAL BALANCE SHEET STATEMENTS

	December 31, 1939	December 31, 1940	December 31, 1941
<b>ASSETS</b>			
Current assets:			
Cash	\$27,024.20	\$28,261.27	\$13,068.44
Temporary cash investments	25,000.00		
Special deposits (insurance)	430.00	450.00	420.60
Accounts receivable	5,880.39	10,959.51	27,435.53
Interest and dividends received	500.01	1,018.76	
Materials and supplies	214.29	617.16	8,131.76
Total current assets	59,048.89	41,286.70	49,055.73
Tangible property:			
Revenue equipment-tractors and trailers	6,779.46	27,464.20	116,894.86
Shop and garage equipment			83.95
Furniture and office equipment	420.38	470.30	429.00
Improvements to leasehold property		433.73	419.45
Total tangible property	7,199.84	28,368.23	117,847.26
Intangible property:			
Organization and franchises	1,248.73	745.74	352.12
Investments securities and advances			
Bonds (U. S. Baby Bonds)	15,000.00	22,700.00	
Deferred debits:			
Prepayments (insurance, license and tires)	2,004.32	3,110.87	8,770.76
Total assets	85,501.78	90,211.54	176,025.87
<b>LIABILITIES</b>			
Current liabilities:			
Accounts payable	1,307.07	2,603.28	55,848.53
Wages payable	112.63	519.89	1,364.10
Taxes accrued	3,114.07	5,307.11	7,789.85
Accrued insurance	1,016.14	2,330.84	7,000.52
Other current liabilities	30.00	45.00	
Total current liabilities	5,579.81	10,806.03	72,003.30
Capital stock			
Common Capital Stock	70,000.00	70,000.00	70,000.00
Unappropriated surplus:			
Earned surplus	8,921.97	15,405.51	34,022.87
Total liabilities	84,501.78	96,211.54	176,025.87

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I. C. C. ET AL. VS. HARRY A. PARKER ET AL.

636-S

THE WILLETT COMPANY OF INDIANA, INC.

323 West Polk Street, Chicago, Illinois

## INCOME STATEMENTS

	Year 1939	Year 1940	Year 1941
Carrier operating revenue:			
Operating revenues	\$71,000.00	\$131,851.56	\$220,563.96
Expenses:			
Operating and maintenance	47,151.53	84,898.56	151,864.00
Depreciation and amortization	3,470.68	9,665.52	16,458.50
Operating taxes and licenses	4,747.99	11,959.88	18,119.05
Operating rents—Net	927.90	4,675.94	8,215.86
Interest deductions			588.06
Total expenses	56,298.10	11,200.93	195,306.10
Net operating revenue	14,701.90	20,650.63	25,845.89
Other income:			
Interest income	822.93	968.75	
Gross income	15,524.83	21,619.38	25,257.80
Provision for income taxes	3,062.15	3,935.84	6,321.68
Net income transferred to surplus	12,462.68	17,683.54	18,936.12

636-T

THE WILLETT COMPANY OF INDIANA, INC.

323 West Polk Street, Chicago, Illinois

## SURPLUS ACCOUNTS

	Year 1939	Year 1940	Year 1941
Credits:			
Earned surplus at beginning	\$7,769.38	\$8,921.97	\$15,405.51
Surplus credits applicable to prior years	36.63		
Credit balance transferred from income account	12,462.68	17,683.54	18,936.12
Total credits	20,268.69	26,605.51	34,341.63
Debits:			
Surplus debits applicable to prior years	146.72		
Dividends paid	11,200.00	11,200.00	318.76
Other debits to surplus			
Total debits	11,346.72	11,200.00	318.76
Earned surplus at end of period	8,921.97	15,405.51	34,022.87



636-W

*Exhibit No. 13*RE APPLICATION MC 2815 SUB NO. 6 OF THE WILLETT COMPANY  
OF INDIANA, INC.

The restrictions in the certificates heretofore issued to the applicant, The Willett Company of Indiana, Inc., are as follows:

## MC 2815 (Grandfather application):

The authority herein authorized covers the substitution of motor service for rail service between the points named and is restricted to traffic moving by rail in joint rail-motor service to and from points beyond the above named points.

## MC 2815 (BMC-10) and Sub 1 and Sub 2:

Service herein authorized is subject to the following conditions: Service to be performed by applicant shall be limited to service which is auxiliary to, or supplemental of, rail service of The Pennsylvania Railroad Company, hereinafter called the railroad.

Applicant shall not serve, or interchange traffic at, any point not a station on the rail line of the railroad.

Shipments transported by applicant shall be limited to those which it receives from or delivers to the railroad under a through bill of lading covering, in addition to movement by applicant, a prior or subsequent movement by rail.

All contractual arrangements between applicant, the railroad, and the American Contract and Trust Company shall be reported to the Commission and shall be subject to revision, if and as the Commission finds it to be necessary in order that such arrangements shall be fair and equitable to the parties.

Such further specific conditions as the Commission, in the future, may find it necessary to impose in order to restrict applicant's operation to service which is auxiliary to, or supplemental of, rail service.

## MC 2815 Subs No. 3, 4, and 5:

The service to be performed by said carrier shall be limited to service which is auxiliary to, or supplemental of, rail service of The Pennsylvania Railroad Company.

Said carrier shall not serve any point not a station on a rail line of the railroad.

636-X No shipment shall be transported by said carrier as a common carrier by motor vehicle between any of the following points, or through or to or from more than one of said points:

# MICRO CARD

TRADE

MARK



# 22

# 44

# 1768



# 63



Indianapolis, Logansport, and Terre Haute, Ind., and Chicago, Ill.

All contractual arrangements between said carrier, the railroad and the American Contract and Trust Company shall be reported to the Commission and shall be subject to revision, if and as the Commission may find it to be necessary in order that such arrangements shall be fair and equitable to the parties.

Such further specific conditions as the Commission in the future, may find it necessary to impose in order to restrict said carriers' operations to service which is auxiliary to, or supplemental of, rail service.

Service to off-route points herein authorized shall be from points on the authorized route which lies nearest to a particular off-route point, and the only off-route points to be served, in connection with any particular route, shall be those which are stations on the most direct line of the railroad between the termini of such route.

636-Y BEFORE THE INTERSTATE COMMERCE COMMISSION

Docket No. MC-2815—Sub No. 6—Form BMC-74.

IN THE MATTER OF THE APPLICATION OF THE WILLETT COMPANY  
OF INDIANA, INC.

*Application for a subpoena duces tecum*

Comes now Interstate Motor Freight System, Inc., Detroit, Michigan, protestant, by its Attorneys, Kit F. Clardy and Harold G. Hernly, and respectfully files this application for a subpoena duces tecum to compel one E. M. Christie of Ft. Wayne, Ind., to appear and produce certain documents as will be hereinafter more fully described for the purpose of further cross-examination at the further hearing now assigned on June 1, 1942, at Lansing, Mich., before Examiner Walter W. Bryan and in support thereof respectfully shows:

1. That Mr. E. M. Christie is an employee of the Pennsylvania Railroad Company, residing in Ft. Wayne, Ind. That he appeared at the original hearing of the above proceeding held at Indianapolis on February 10, 1942, and testified in support of this extension application.

2. That protestant respectfully requests the right to recall Mr. E. M. Christie for further cross-examination relative to the same subject matter to which he testified at the original hearing, specifically with respect to the underlying data upon which his testimony was based, which is described below.

3. That the specific documents, books, and records that Mr.

E. M. Christie should be compelled to produce are 636-Z a. The contract entered into between the Willett Co. and the Pennsylvania Railroad Company covering the extension operations set out in the Sub 6 application.

b. All data and documents used in preparing Exhibit 5 presented and identified by this witness at the hearing on this application at Indianapolis on February 10, 1942.

c. All data and documents of the Pennsylvania Railroad Company which will show the amount of tonnage handled by that company to or from each of the towns on the proposed extension during the period of time covered by Exhibit 5. This data, documents or information to set out the in-bound and out-bound tonnage handled by the railroad company at each of the towns involved in the extension application during the period covered by Exhibit 5.

d. All of the data, documents or sources of information used by the witness as the basis for his testimony and by applicant's counsel for his offer of proof on the subject of claimed savings to the railroad and covered in the testimony and offer of proof set forth on pages 523 to 531, inclusive, of the transcript.

4. That all of the data set out immediately above that protestant desires to be produced at the further hearing named, has a material bearing on the issue of present and future public convenience and necessity for the proposed extension of operations, and should become a part of the record in this proceeding.

Wherefore, protestant respectfully requests that a subpoena duces tecum be issued to compel the production of the documents described above at the further hearing now assigned on June 1, 1942, at Lansing, Mich.

Respectfully submitted.

INTERSTATE MOTOR FREIGHT SYSTEM, INC.,

KIT F. CLARDY,

*Olds Tower Bldg., Lansing, Mich.*

HAROLD G. HERNLY,

*Attorneys for Petitioners.*

By HAROLD G. HERNLY.

Transportation Bldg., Washington, D. C., May 49, 1942.

## OFFICE OF THE SECRETARY

WASHINGTON

W. P. BARTEL, *Secretary.*

MAY 28, 1942.

Mr. Kit F. Clardy.

*Olds Tower Building, Lansing, Michigan.*

DEAR MR. CLARDY: This is to inform you that your request, dated May 19, 1942, for the issuance of a subpoena duces tecum in No. MC 2815 (Sub-No. 6), directed to E. M. Christie, was considered May 26, 1942, and denied.

One of the documents which you request is a copy of the contract between the Willett Company and the Pennsylvania Railroad under which service will be performed if the application is granted. I understand that the applicant has indicated to the Joint Board that if it considered the contract relevant, it is agreeable to supplying a copy for the record.

The Joint Board having participated in the earlier hearing is familiar with the issues and in a position to judge whether the contract is relevant and material. It is suggested, therefore, that the question of the production of the contract be taken up with the Joint Board at the further hearing and if the Joint Board believes the contract should be made a part of the record, the applicant will supply it.

Very truly yours,

W. P. BARTEL, *Secretary.*

cc—Mr. Harry E. Yockey, Attorney at Law, 1250 Consolidated Building, Indianapolis, Indiana.

IN THE MATTER OF THE APPLICATION, AS AMENDED, OF THE WILLETT COMPANY OF INDIANA, INC., OF 323 WEST POLK STREET, CHICAGO, ILLINOIS, FILED SEPTEMBER 8, 1941, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, FORM BMC 74, AUTHORIZING EXTENSION OF OPERATIONS AS A COMMON CARRIER BY MOTOR VEHICLE IN THE TRANSPORTATION OF GENERAL COMMODITIES, IN INTERSTATE OR FOREIGN COMMERCE, IN THE STATES OF INDIANA AND MICHIGAN, OVER SPECIFIED REGULAR ROUTES

STATE OFFICE BUILDING.

*Lansing, Michigan, June 1, 1942.*

Met, pursuant to notice, at 9:30 o'clock a. m.

Before Joint Board No. 23, represented by: Richard H. Barkell.

Michigan: Oliver H. Eggers, Indiana.

Present: WALTER W. BRYAN, Examiner.

Appearances: As heretofore noted.



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## PROCEEDINGS

Mr. BARKELL. Come to order, please, gentlemen. We will call at this time for further hearing Docket No. MC 2815, Sub No. 6, application of The Willett Company of Indiana, Inc. Before proceeding, we will take any appearances that have not heretofore been entered. Are there any additional appearances? (No response.) I might say that the place of hearing, as set out in the Commission's notice, was to be the Hotel Porter, here in Lansing, but owing to the large number in attendance, it has been necessary to transfer the hearing over here. Therefore, if anybody comes in late, we will accept additional appearances as they arrive. At this time, are there any new appearances to be entered in this proceeding that were not entered at the last hearing? (No response.) Apparently not. Now, gentlemen, as I recall it, the applicant had completed its case at the last hearing, so we will proceed at this time with the protestants' side of the controversy. Are you ready to proceed, Mr. Clardy?

Mr. CLARDY. Yes, sir.

Mr. BARKELL. You may call your first witness, please.

Mr. CLARDY. If the Joint Board please, we have here this morning a number of witnesses who have come from some distance, particularly from the northern end of the state, and we would like to put them on the stand and release them first, if we can do that. First, however, in order to lay a foundation for their testimony, I would like to place on the witness stand Mr. 640 Parker, not for a complete examination, but merely for part of it, in order to delineate the rights that he has, and the service that he renders; and then I will ask leave to withdraw him temporarily, if that is agreeable, in order that we may go forward with the shipper witnesses on the basis of the preliminary testimony of Mr. Parker.

Mr. BARKELL. I assume there will be no objection to that. You may proceed.

Mr. CLARDY. Mr. Parker.

HARRY PARKER was sworn and testified as follows:

Direct examination by Mr. CLARDY:

Q. Your name, Witness.

A. Harry Parker.

Q. Your residence?

A. Petoskey, Michigan.

Q. What is your business?

A. Motor carrier operator.

Q. What is the name of your company?

A. Parker Motor Freight.

Q. Your company is operating in interstate commerce under authority of a certificate issued to it by the Interstate Commerce Commission, is it not?

A. Yes.

Q. And that order is in Docket No. MC 4713; is that correct?

641 A. Right.

Q. That has reached the status of a certificate?

A. Yes.

Mr. CLARDY. May I say, your Honors, that while we have copies of Mr. Parker's authority here, we will not have it marked as an exhibit, because I assume the Commission will take judicial notice of it; but if any of counsel on the other side want a copy for purpose of cross-examination, or for any other purpose, as I say, we have copies available.

Mr. HARRY YOCKEY. I would like to see it.

Mr. CLARDY. All right.

By Mr. CLARDY:

Q. Witness, your company has been engaged in operations over the routes set out in your certificate for approximately how many years?

A. Since '28.

Q. Since 1928.

A. Yes.

Q. And in carrying on your operation, have you been engaged in such service as we ordinarily term a fixed-route, common carrier?

A. Yes.

Q. As I understand it, your operations parallel and duplicate the points requested by the applicant herein, on only a portion of the routes involved.

A. Yes.

642 Q. Now, would you tell us, so that we will have it at one place in the record, where it is that this duplication starts of your operations with the request of the applicant that is now before the Joint Board and the Commission.

A. That duplication is from Grand Rapids to Traverse City, Michigan; Grand Rapids to Mackinaw City; and Harbor Springs.

By Mr. HARRY YOCKEY:

Q. Pardon me; Grand Rapids to Harbor Springs, did you say?

A. Grand Rapids to Traverse City; Grand Rapids to Mackinaw City; and also a route into Harbor Springs.

Mr. HARRY YOCKEY. All right.

By Mr. CLARDY:

Q. And that route into Harbor Springs, Witness, leaves the route running north from Grand Rapids at what point?

A. Well, now, I do not believe that there is any highway there, but it is about 3 miles north of Petoskey.

Mr. CLARDY. May I see Applicant's Exhibit No. 2, please.

By Mr. CLARDY:

Q. Witness, I show you a copy of the map which has been presented in evidence in this proceeding by the applicant, and marked as Applicant's Exhibit No. 2, and I will ask you to state to us—or rather, to describe to us the points north of Grand Rapids, involved in the application, that you do not serve, so that we may be sure the record is clear as to just precisely where the duplication runs.

A. Only from Grand Rapids to Cadillac.

Q. That is—

643 A. I serve everything north of Cadillac, to Mackinaw City, in this application.

Q. In other words, Witness, you do not serve the intermediate points between Grand Rapids and Cadillac.

A. No.

Q. But other than that, you serve everything north of Grand Rapids that is included in that exhibit; is that correct?

A. With the exception of Lake City.

Q. Lake City?

A. Yes.

Q. Very well.

Mr. HARRY YOCKEY. It is a little bit difficult for us to hear the witness over here. Did he say that he does not serve Lake City?

Mr. MUNSHAW. That is right.

The WITNESS. That is correct.

By Mr. CLARDY:

Q. Now, Witness, in addition to that, you serve certain other communities north of Grand Rapids that are not included in the present application, do you not?

A. Yes.

Mr. CLARDY. Mr. Reporter, Protestants' Exhibit 14 for identification, please.

(Protestants' Exhibit No. 14, Witness Parker, marked for identification.)

By Mr. CLARDY:

644 Q. I show you now, Witness, a map which has just been marked by the reporter as Protestants' Exhibit No. 14 for identification, and I will ask you if that map correctly por-

trays and sets forth the routes that have been authorized to you by the certificate of the Interstate Commerce Commission.

A. It does.

Q. Are you conducting a regular, daily operation over those various routes?

A. Yes, sir.

Q. Serving the points, with the exception of the intermediate points between Grand Rapids and Cadillac, as you have indicated?

A. Yes.

Q. Now, then, this map includes, in addition to the routes requested by the applicant here, a route that runs to the west—or rather, two routes that run to the west, namely, one over to Ludington, and one over to Manistee; is that correct?

A. Yes, sir.

Q. With a connection between the two, paralleling the shore of Lake Michigan.

A. That is right.

Q. In the part of the state north of Cadillac, your operations are such that you serve practically every point of importance north of that point, between Cadillac and Mackinaw City; is that correct?

A. Yes.

Q. Would you tell us whether the communities which you serve there are small or large communities, as we ordinarily use  
645 those terms.

Mr. HARRY YOCKEY. Now, just a moment. If the Joint Board please, I want to object to the question as immaterial. The only question here is whether or not they serve the points in question.

Mr. BARKELL. I think the witness may answer the question.

Mr. CLARDY. I may say, your Honors, it will be important, because the question of the loss of service to small communities is certainly in issue here, by this application, as amended.

(Mr. BARKELL. Proceed. The witness may answer the question.

The WITNESS. I have figures as to the population of those various communities; but I do not have them with me just this minute, because I did not expect to go on the stand this morning.

By Mr. CLARDY:

Q. You have a man who will be on the witness stand a little later on, who can testify with respect to that, have you?

A. Yes, sir, he will be able to cover that. We did not expect to bring those in until this afternoon.

Q. Very well, then. I will reserve that question for the later witness.

A. Yes.

Q. Is it not true, however, Witness, that on the routes which you serve, the only towns of any real size are Cadillac, Traverse City, and Petoskey, and, if we may stretch it a little, perhaps Mackinaw City.

646 A. That is true.

Q. Harbor Springs is somewhere in between, with respect to size is it not?

A. Why, yes, sir. I think Harbor Springs has a population of about 1,500; but I can give you that definitely this afternoon.

Q. All right. Now, Witness, you were present at the earlier hearing in this proceeding, at Indianapolis, at which the applicant presented its testimony, were you not?

A. Yes.

Q. You therefore have in mind, I take it, some understanding of the kind of service that the applicant is here proposing to render, have you not?

A. Yes.

Q. Is your company in a position to, and would it, furnish the type of service that has been described in this record thus far by the applicant, if the business were to be offered to you?

A. Yes.

Q. Now, you will recall, I take it, that at one place in the testimony the applicant gave some indication that, while there would be freight of this less than truckload nature transferred to trucks at Grand Rapids, there would also be, for some of these other points to the north, a handling of freight by rail to Cadillac, and thence by truck on to destination. You recall that testimony, do you?

A. Yes.

647 Q. Would there be any service that you could offer to the Pennsylvania Railroad, in connection with movements from the south, passing through Grand Rapids, on that line—would there be any service that you could offer them to points north of Cadillac, either giving the freight to you at Cadillac or Grand Rapids?

A. Yes.

Q. In other words, Witness, are you in a position to furnish them service from either or both of those points?

A. I am.

Mr. CLARDY. May I see the exhibits again, please. Do you remember, Mr. Yockey, the number of the exhibit that has your operating schedules in it?

Mr. HARRY YOCKEY. That was our exhibit No. 4, I believe.

Mr. CLARDY. 4?

Mr. HARRY YOCKEY. Yes.



By Mr. CLARDY:

Q. Now, Witness, I place before you a copy of Applicant's Exhibit No. 4 in this proceeding, showing the times of arrival and departure at Grand Rapids and Cadillac, among other points. You observe, do you, what is set out on the exhibit?

A. Yes.

Q. Do you maintain schedules at the present time at somewhere near the times set out on this exhibit, with regard to departures both from Grand Rapids and from Cadillac, and also from  
648 the other points that are listed thereon?

A. Well, at the present time they would not meet these schedules, no, sir, but we could arrange them, so as to meet them.

Q. Well, that was going to be my next question, Witness. At the present time are your schedules precisely at the hours as set out on this exhibit?

A. No.

Q. Your answer is that they are not?

A. They are not.

Q. Now, would you tell us why the schedules which you are operating at the present time, are set up on the basis that you are using?

A. Our departure time out of Grand Rapids is about 8:30 in the evening, and our schedule is set up for the purpose of rendering an over-night service to the points that we serve.

Q. Has your experience over the number of years during which you have been operating, indicated that in order to effect the quickest delivery, that is the best time for departure?

A. Yes, sir.

Q. Now, if the railroad, however, should ask you, for example, to make a run northward out of Grand Rapids sometime around—and this, they say, is a little bit flexible—11:30 a. m., as shown by their schedules here, are you in a position to, and would you, furnish that service for them?

A. Yes.

649 Q. Now they also show a schedule that operates out of Cadillac, going the other way, into Grand Rapids, that leaves Cadillac at 5:30 p. m. What is your present operating time southbound from Cadillac?

A. Approximately 10:00 o'clock in the evening.

Q. Arriving sometime during the night, at Grand Rapids?

A. At 1:30.

Q. A. m.?

A. Yes.

Q. Now, this 5:30 schedule which is set up in Applicant's Exhibit No. 4, which I have referred to, has not been completely

gone into, as to precisely the reasons for it, but regardless of the reasons, are you in a position to, and would you operate such a schedule out of there at 5:30 p. m. if the railroad should request you to do so?

A. If there was tonnage.

Mr. HARRY YOCKEY. What was that?

Mr. LINDSTRAND. "If there was tonnage."

Mr. BARKELL. Will you read that last answer, please, Mr. Reporter?

(Answer read.)

My Mr. CLARDY:

Q. Now, Witness, as to the other movement out of Cadillac for Traverse City: They show a movement schedule out of there at 3:00 o'clock in the afternoon, getting into Traverse City around 8:00 o'clock at night.

650 A. Yes.

Q. What is your own present schedule out of Cadillac to Traverse City?

A. Between 10:00 and 11:00 o'clock in the morning.

Q. 10:00 or 11:00 o'clock?

A. Between 10:00 and 11:00 o'clock.

Q. Your operations, then, into Traverse City from Cadillac, reach there about what time?

A. On the average, between 1:00 and 1:30.

Q. In the afternoon?

A. Yes, sir.

Q. If the railroad—

A. (Continuing.) That is, approximately.

Q. All right.

A. I cannot give you the exact figure.

Q. If the railroad should desire an additional service performed at the hours shown here, are you in a position to, and would you, furnish that service also?

A. Yes.

Q. Your answer is "Yes"?

A. Yes, sir.

Mr. BARKELL. Talk a little louder, please, Mr. Witness.

By Mr. CLARDY:

Q. Now, Witness, in connection with movements out of Cadillac to Petoskey, this schedule shows the same departure time of 3:00 o'clock in the afternoon out of Cadillac, with an arrival at 9:30 in the evening at Petoskey. What time do your trucks get into Petoskey?

651 A. Our trucks get into Petoskey around 3:00 o'clock—or between 2:30 and 3:00 o'clock, I would say.

Q. Now, on the southbound movements, they show a departure out of Petoskey at 10:00 o'clock a. m., and a departure out of Traverse City at 12:30 p. m., getting into Cadillac at 4:00 in the afternoon. How does that compare with your present schedules southbound?

A. Did you say 10:30 in the morning out of Petoskey?

Q. 10:00 o'clock a. m. out of Petoskey, and 12:30 p. m. out of Traverse City.

A. Well, we have one service out of Petoskey that leaves there about 8:00 in the morning, and then we have additional service as it is needed.

Q. And how about the departure southward out of Traverse City?

A. For Grand Rapids?

Q. For anywhere south.

A. That is around between 5:00 and 6:00 o'clock in the evening.

Q. Would you inaugurate a schedule at the approximate times as shown in Applicant's Exhibit No. 4 here, if the railroad should offer you its business, and ask you to handle it?

A. If there was revenue.

By Mr. HARRY YOCKEY:

Q. I am sorry to interrupt, but I did not get that answer.

A. I said, if there was revenue.

652

By Mr. CLARDY:

Q. Now, with regard to Mackinaw City: They set up a schedule here starting out at Petoskey at 10:00 o'clock p. m., and getting into Mackinaw City at 1:00 o'clock a. m. Now, what time does your truck leave Petoskey for Mackinaw City, and how do you handle that operation?

A. It leaves Petoskey about 10:00 a. m.

Q. Getting into Mackinaw City at what time?

A. Around 1:30.

Q. Again I ask you, if they should request a special operation, at or about the time set up on this exhibit No. 4, are you in a position to, and would you, furnish that service?

A. If the revenue was there, and if the tonnage was there; yes, sir.

Mr. HARRY YOCKEY. Will you read that last answer, please, Mr. Reporter?

(Answer read.)

By Mr. CLARDY:

Q. Now, in the southbound movement, they leave Mackinaw City at 4:00 o'clock in the afternoon, getting into Petoskey at 10:00 o'clock in the evening—that is, p. m. in both cases.

A. I understand.

Q. How does that compare with your schedule?

A. Well, we leave Mackinaw City at 1:30, and get back into Petoskey around 6:00 o'clock.

By Mr. HARRY YOCKEY:

Q. P. m.?

653 A. Pardon me?

Q. That is, p. m.?

A. Yes.

By Mr. CLARDY:

Q. That is p. m. in both cases.

A. Yes. That is the approximate time.

Q. All right. Now, again I ask you, Witness, if the railroad should offer you this business, and ask you to inaugurate a schedule at or about the time set out on this exhibit, would you do so?

A. Yes.

Q. Now, you have noticed, Witness, that I have framed each of my questions so as to indicate "about the time," or "approximately the time," because in the main case the applicant indicated, before it finished—which I know to be the fact—that these times are not inflexible, but might be varied a little bit.

A. I understand.

Q. Have you, from time to time, shifted your own schedules, and your times of arrival and departure, so that they have not always been at just the precise arrival and departure times that you are using at the present time?

A. Oh, yes; we have occasion to do that from time to time, to meet the circumstances that may arise.

Q. Now, would you tell us, Witness, where the bulk of your business originates?

A. (No answer.)

654 Q. In other words, is it from off your line, from points that you do not serve directly, or does the bulk of your business originate on your line?

A. Why, I would say that it would consist of about 50 percent, that we originate on our own line, and about 50 percent transfer business.

Q. Referring to that which comes to you in transfer, a very considerable portion of it that comes from such points as Chicago, and Indianapolis, and points of that sort.

A. Yes.

Q. Points beyond the state line.

A. Yes.

Q. Now, in connection with movements from Chicago, for example—

Mr. BARKELL. Mr. Clardy.

Mr. CLARDY. I beg your pardon?

Mr. BARKELL. We are going to take a short recess at this time.  
(A short recess was taken.)

Mr. BARKELL. Come to order, please, gentlemen. You may proceed, Mr. Clardy.

By Mr. CLARDY:

Q. Now, Witness, at the present time the schedules which you are operating over these routes require the use of approximately how many vehicles?

A. About 40 units.

Q. And are you the only carrier that is operating over 655 this entire route, or are there other carriers that are in competition with you, operating over all, or a part, of the route?

Mr. BARKELL. Before you go any further, Mr. Clardy, let us clarify those 40 units.

Mr. HARRY YOCKEY. Yes.

By Mr. BARKELL:

Q. Do you mean by that, Mr. Parker, 40 tractors and 40 trailers?

A. No.

Q. Or does that represent combinations?

A. We have approximately 21 or 22 trailers, and about 16 tractors, and 11 or 12 straight jobs. I couldn't tell you just exactly.

Mr. HARRY YOCKEY. Will you speak a little louder.

Mr. CLARDY. Keep your voice up, please.

Mr. BARKELL. Read the answer, please.

(Answer read.)

Mr. BARKELL. All right.

By Mr. CLARDY:

Q. Now, Witness, my last question, if I recall correctly, was as to whether or not you have some competition over any part of this operation.

A. Yes; at Traverse City.

Q. Into Traverse City?

A. Yes.

Q. Who serves there?

Mr. HARRY YOCKEY. Between what points?

Mr. CLARDY. Pardon me?

656 Mr. BARKELL. Between what points?

By Mr. CLARDY:

Q. Yes; what points do they serve from, and where to?

A. Darling has intrastate rights into Traverse City.



Q. From where?

A. Grand Rapids.

Q. From Grand Rapids?

A. Yes, sir; to the points he serves; and then there is Wolverine Motor Express, and Interstate.

Q. Interstate Motor Freight System?

A. Yes.

Q. Yes?

A. And McVicker Brothers.

Q. In operations particularly between Cadillac and Grand Rapids, where you do not serve the intermediate points, do all of those carriers which you have named serve those points?

A. I wouldn't be able to say definitely about McVicker Brothers. I know that they serve Cadillac, but I don't know whether they serve the intermediate points, or not.

Q. Well, do you know whether or not Darling is serving those points?

A. Yes.

Q. Is he?

A. Yes, sir.

Q. Do you know whether or not Interstate Motor Freight  
657 System is serving these points?

A. Interstate Motor Freight is serving the majority of the points, I believe.

Q. Now, let me see. What was the other carrier that you named, besides McVicker Brothers—or did you name another carrier?

A. Wolverine Motor Express.

Q. Oh, yes. Do they serve those points?

A. Why, I know that they go as far as Big Rapids, but as to points north of there, I couldn't tell you.

Q. Now, there is one other carrier that you did not name, and that is Associated Truck Lines.

A. Oh, yes.

Q. Does Associated Truck Lines serve any of the points along this route?

A. Yes.

Q. They serve up as far north as—what point, if you know?

A. To the best of my knowledge, Rockford.

Q. Talking now about the operation known as Associated Truck Lines.

A. Yes.

Q. Now, during the recess which we took just now, Witness, did you check your figures with one of your employees with regard to the apportionment between interstate and intrastate freight over your route?

A. Yes.

Q. As a result of that, what did you discover the percentages to be? I believe you testified before that it is about 50-50.

A. 75 percent is transfer freight.

Q. And the balance of 25 per cent consists of freight that is local to the line; is that correct?

A. Right.

Q. By the way, Witness, Associated Truck Lines is, to your knowledge, engaged in both interstate and intrastate operations, is it not?

A. Yes.

Q. And is the same thing true of the Darling operation?

A. Yes.

Q. How about Interstate Motor Freight System—or do you have any recollection as to that?

A. Oh, yes; Interstate Motor Freight serve intrastate and interstate over a portion of the route.

Q. All right.

A. But I couldn't say that they serve the entire route.

Q. And as to Wolverine Motor Express, they are operating in both interstate commerce and intrastate commerce, are they not?

A. Yes, sir, as far as Big Rapids, as I understand it.

Mr. CLARDY. Now, your Honors, I have a great many more questions to go into with Mr. Parker. Up to this point I have merely tried to put into the record a general outline of his service. Now, if there is no objection on the part of counsel for applicant, I would like to withdraw Mr. Parker for the time being, and put on some of my shipper witnesses.

Mr. BARKELL. Is there any objection to that?

Mr. HARRY YOCKEY. None.

Mr. CLARDY. Mr. Yockey, would you prefer to cross-examine Mr. Parker on the direct testimony that he has given up to this point—

Mr. HARRY YOCKEY. No.

Mr. CLARDY. Or would you prefer to wait until he comes back, and I get all through with him, and then have it all in the record at one place?

Mr. HARRY YOCKEY. Yes; we would rather wait, if the Board please, until counsel has finished all of his direct.

Mr. CLARDY. Fine.

Mr. HARRY YOCKEY. It is perfectly agreeable to us to have you withdraw him at this time, to accommodate your other witnesses.

Mr. CLARDY. All right.

Mr. BARKELL. That appears to be all for the present, then, Mr. Parker.

The WITNESS. All right, sir.

(Witness excused.)

Mr. CLARDY. Your Honors, I find that we have one other carrier witness whom we would like to put on, and then we will be ready to start in with our shipper witnesses.

Mr. BARKELL. All right.

660 Mr. ANDERSON. Mr. Williams.

EDWARD WILLIAMS was sworn and testified as follows:

Direct examination by Mr. ANDERSON:

Q. Mr. Williams, will you give your full name to the reporter, please.

A. Edward Williams.

Q. Where do you reside?

A. Fort Wayne, Indiana.

Q. What is your business?

A. Motor truck operator.

Q. Common carrier?

A. Yes.

Q. In interstate commerce?

A. Yes.

Q. Operating under and by virtue of authority received from the Interstate Commerce Commission?

A. Yes.

Q. Can you give us the number of your certificate?

A. MC 2974.

Q. What are the routes covered by your operation?

Mr. HARRY YOCKEY. What is the name of his company?

Mr. ANDERSON. O. I. M. Transit Corporation. I was just about to ask him that.

By Mr. ANDERSON:

661 Q. You are connected with what operation, Mr. Williams?

A. O. I. M. Transit Corporation.

Q. In what capacity?

A. President and general manager.

Q. That company has its principal offices at Fort Wayne, Indiana; is that correct?

A. Yes, sir.

Q. And operates over certain routes in the state of Michigan.

A. Yes.

Mr. ANDERSON. Mr. Reporter. Protestants' Exhibit No. 15 for identification, please.

(Protestants' Exhibit No. 15, Witness Williams, marked for identification.)

By Mr. ANDERSON:

Q. Now, Mr. Williams, I hand you this map, which has been made by the reporter as Protestants' Exhibit No. 15 for identification, purporting to be an official highway map of the state of Indiana, upon which there are certain lines shown in blue.

A. Yes.

Q. I will ask you to state whether or not that correctly reflects the route of O. I. M. Transit Corporation insofar as the Indiana highways are concerned, and so far as it shows the highways in the state of Michigan.

A. Yes, sir.

Mr. HARRY YOCKEY. Has that been marked as an exhibit?

662 Mr. ANDERSON. Yes.

Mr. BARKELL. For identification.

Mr. ANDERSON. At this time, protestant O. I. M. Transit Corporation offers in evidence, Protestants' Exhibit No. 15, purporting to be an official highway map of the state of Indiana, showing O. I. M. Transit Corporation's routes in Indiana, and part of Michigan.

Mr. BARKELL. Is there any objection?

Mr. HARRY YOCKEY. Which is this, now; No. 15?

Mr. ANDERSON. Yes.

Mr. HARRY YOCKEY. You have not had him identify it as yet, have you?

Mr. ANDERSON. Yes.

Mr. HARRY YOCKEY. All right. If you are satisfied, O. K.

Mr. BARKELL. All right. Is there any confusion about the marking of the exhibit; Mr. Yockey?

Mr. HARRY YOCKEY. I guess not.

Mr. ANDERSON. If there is, I will state for the record that what the reporter has just marked as Protestants' Exhibit No. 15 for identification, is an official highway map of the state of Indiana, reflecting, as indicated in blue crayon, the routes of O. I. M. Transit Corporation in Indiana, and in Michigan, so far as Michigan is shown.

The WITNESS. That is correct.

Mr. BARKELL. All right. Let us proceed.

663 By Mr. ANDERSON:

Q. Now, Mr. Williams, you have before you a map of the State of Michigan, have you not, on which there are certain routes, or lines shown in blue, or purple, including, in the lower portion of the map, the upper part of the state of Indiana, connecting up with the map heretofore identified as Protestants' Exhibit No. 15.

A. Yes.

Mr. ANDERSON. Mr. Reporter, will you please mark this Michigan map as Protestants' Exhibit No. 16 for identification.

(Protestants' Exhibit No. 16, Witness Williams, marked for identification.)

By Mr. ANDERSON:

Q. Now, Mr. Williams, still referring to this map, marked by the reporter as Protestants' Exhibit No. 16 for identification, I will ask you to state whether or not this map shows correctly the routes of your company, O. I. M. Transit Corporation, in the State of Michigan.

A. Yes.

Q. And taken together, the two maps, exhibit No. 15 and exhibit No. 16, show all of the routes of O. I. M. Transit Corporation in full; is that correct?

A. Yes.

Q. The Indiana map being exhibit No. 15, and the Michigan map being No. 16.

A. Yes.

664 Mr. ANDERSON. At this time, if the Board please, Protestant O. I. M. Transit Corporation offers in evidence Protestants' Exhibit No. 16, being a map of the State of Michigan, showing the routes in that state of O. I. M. Transit Corporation.

Mr. HARRY YOCKEY. I think, if the Board please, we shall ask that you reserve ruling on these exhibits at this time, until after we have had an opportunity to examine them a little more closely, and cross-examine the witness on them, if we desire, as is the usual practice.

Mr. ANDERSON. I do not see any particular reason for that, your Honors, but I have no objection to that, if that is what counsel wants to do. The witness has testified that they correctly show his routes, and that is all they are offered for.

Mr. BARKELL. Oh, in the case of any exhibit, opposing counsel has the right to examine it, before it is received in evidence, of course.

Mr. ANDERSON. All right.

Mr. BARKELL. I cannot see any objection to that.

Mr. ANDERSON. That is all right.

By Mr. ANDERSON:

Q. Now, Mr. Williams will you please explain to the Joint Board and the Commission the service that is being rendered by you in interstate commerce over the entire routes of O. I. M. Transit Corporation, as to the Michigan routes, so far as the Michigan routes are concerned—that is, I mean between Fort Wayne, Indi-



ana, and the points in Michigan shown on Protestants Exhibit No. 16 for identification.

665 A. I presume your question means, from Fort Wayne—  
or rather, between Fort Wayne and Kalamazoo, Michigan.

Q. Yes.

A. Where it affects this application?

Q. Well, that is—

A. Or rather, where this application affects our operation.

Q. Right.

A. Well, we have a daily service between Fort Wayne, Indiana, and Kalamazoo, Michigan; including all intermediate points, over Indiana highway No. 3, U. S. highway No. 6, Indiana highway 9, Michigan highway 78, U. S. highway 112, and U. S. highway 131—including all intermediate points.

Q. Serving all intermediate points.

A. Yes.

Q. Daily.

A. That is right.

Q. And how many pieces of equipment do you operate over that route daily?

A. Between Fort Wayne and Kendallville, Indiana, we have 3 trucks operating daily; and between Fort Wayne, Indiana, and Kalamazoo, Michigan, there are 2 trucks daily.

Q. Are all of those pieces of equipment loaded to capacity at all times?

A. No, sir; they are not, and I fear very much that from now on, there will be even less than there has been in the past.

666 Q. Why?

A. By reason of O. D. T. order No. 3, and also the loss of business in through there, due to the fact that the manufacturing plants, especially in Kalamazoo, have now been diverted to the production of defense materials.

Q. Would you be able, and are you willing, to handle any freight that may be offered to you by The Pennsylvania Railroad, for movement from points in Indiana into Michigan, or vice versa.

A. Yes, sir.

Q. That is, over your route.

A. Yes, sir; I would. As a matter of fact, I have already offered my service to The Pennsylvania Railroad, but they replied that they were already well taken care of by The Willett Company, and Pennsylvania Truck Lines.

Q. Now—

Mr. HARRY YOCKEY. Pardon me, but may I ask a preliminary question right there, as to whether that was in writing, or not.

Mr. ANDERSON. Yes; you may ask him that question.

The WITNESS. How is that?

By Mr. HARRY YOCKEY:

Q. Was that in writing?

A. No, sir; it was not.

Q. That was just conversation, was it?

A. That was in conversation with a representative of The Pennsylvania Railroad—

Q. That is all I want to know.

667 A. At Fort Wayne, Indiana.

Mr. HARRY YOCKEY. All right.

By Mr. ANDERSON:

Q. Now, Mr. Williamis, your furthestmost point north in the state of Michigan, as shown by Protestants' Exhibit No. 16 for identification, on the one route is Kalamazoo—

A. Yes.

Q. And on the other, is Jackson.

A. Yes.

Q. And you connect at Jackson.

A. Yes.

Q. What, then, are the points in the state of Michigan that you serve from points elsewhere on your route, that are covered by the proposed application—and I am laying before you now the map of The Willett Company.

A. Sturgis, Michigan; Three Rivers, Michigan; Schoolcraft, Michigan; and Kalamazoo.

Q. You render a daily service there, do you?

A. Yes.

Q. To and from all of those points.

A. Yes, sir.

Q. Both truckload and less than truckload.

A. Yes.

By Mr. EGGERS:

Q. Just a moment right there, please, Mr. Williams. Is Three Rivers in the application—

A. Yes.

668 Q. On the proposed route?

A. Yes.

Q. To your knowledge, is it?

Mr. BARKELL. No.

The WITNESS. According to the map, it is.

By Mr. ANDERSON:

Q. Three Rivers, Michigan, is on the proposed route, is it not, Mr. Williams?

A. Yes.

Mr. ANDERSON. That is correct, is it not?

Mr. HARRY YOCKEY. How is that?

Mr. ANDERSON. The Joint Board member inquired if Three Rivers is on the proposed route.

Mr. HARRY YOCKEY. Three Rivers is; yes.

Mr. ANDERSON. Yes; it is, your Honor.

Mr. EGGERS. Well, now, just a moment. Let us be off the record a moment.

Mr. BARKELL. Yes.

(Discussion outside the record.)

Mr. BARKELL. Back on the record.

Mr. EGGERS. On the record: Three Rivers is not involved, then, is it?

Mr. HARRY YOCKEY. No; it is not, your Honor, and neither is Schoolcraft.

Mr. EGGERS. All right.

Mr. BARKELL. Proceed, Mr. Anderson.

669

By Mr. ANDERSON:

Q. Now, Mr. Williams, with respect to interstate freight moving over your line, from points east of Fort Wayne, any point east of Fort Wayne, such as Columbus, Ohio, or Pittsburgh, Pennsylvania, moving, or consigned, to Kalamazoo, or Sturgis, or any of the points on this route; Do you handle some of that freight?

A. Yes.

Q. And what service do you give, with a connecting line, in the case of a shipment, say, from Pittsburgh, Pennsylvania, consigned to Kalamazoo, Michigan?

A. About from 48 hours—

By Mr. HARRY YOCKEY:

Q. 48 hours?

A. Running from 48 hours to 72 hours.

By Mr. ANDERSON:

Q. And what line do you connect with at Fort Wayne, coming from the East?

A. Oh, there are numerous lines operating from the East, that we connect with at Fort Wayne.

Q. Name some of them.

A. Motor Cargo; CCC Highway; and Commercial Motor—those are three of the largest ones—or the three largest ones.

Q. Do you experience any delay in getting freight transferred coming from eastern points to Fort Wayne, destined for delivery in Kalamazoo, or other points involved, in Michigan?

A. We do not have any delay that I know of there; no, sir.

Mr. ANDERSON. Now, if the Board please, I believe that is all

670 in connection specifically with the operations of O. I. M. Transit Corporation.

By Mr. ANDERSON:

Q. Now, Mr. Williams, I would like to have your name for the record any other carriers operating between Fort Wayne, Indiana and Kalamazoo, Michigan—that is, any other motor vehicle operators.

A. Interstate Motor Freight System.

Q. Interstate?

A. Yes.

Q. Any others?

A. And Norwalk Truck Lines. Those are the two largest.

Q. Do they serve Sturgis?

A. Yes.

Q. And other points in Michigan that are covered by the proposed Willett Company route?

A. Yes, sir.

Q. In addition to Sturgis.

A. Yes.

Mr. ANDERSON. Now, if the Board please, I want to ask Mr. Williams a few questions with respect to the service of Day's Transfer. Mr. Reporter, Protestants' Exhibit No. 17 for identification, please.

(Protestants' Exhibit No. 17, (Witness Williams, marked for identification.)

By Mr. ANDERSON:

671 Q. Now, Mr. Williams, I lay before you this map, which has been marked by the reporter as Protestants' Exhibit No. 17 for identification, and I will ask you to state if that map correctly reflects the operations of Day's Transfer, of Elkhart, Indiana.

Mr. HARRY YOCKEY. Well, now, just a moment. I do not want to object if counsel is merely intending to ask the witness if this correctly reflects their operation, just in a general way, if he knows.

Mr. ANDERSON. I will give you a copy.

Mr. HARRY YOCKEY. As far as that is concerned, I will take your word for it, Mr. Anderson. If you want to introduce that, and you state that that is their operation, that is all right. Or if he knows, in a general way, why, he may identify it.

Mr. ANDERSON. All right.

By Mr. ANDERSON:

Q. Does that map correctly and accurately reflect the operations of Day's Transfer of Elkhart, Indiana, Mr. Williams?

A. As far as I know.

Q. As far as you know their routes?

A. As far as I know; yes, sir.

Mr. HARRY YOCKEY. May I suggest further, in connection with Protestants' Exhibit No. 17 for identification, that you ought to get the number of their authority into the record also, their I. C. C. number.

Mr. ANDERSON. Yes.

672 Mr. HARRY YOCKEY. So that we may have that in the record at this time, in connection with the exhibit.

Mr. ANDERSON. I will do that. The number of the certificate issued by the Interstate Commerce Commission to Day's Transfer—well, now, I am very sorry, but I will have to furnish that later.

Mr. HARRY YOCKEY. All right.

673 Mr. BARKELL. How is that?

Mr. ANDERSON. I am very sorry, your Honor, but apparently I do not have that available just at this time.

Mr. HARRY YOCKEY. That is all right.

Mr. ANDERSON. However, I will furnish you, Mr. Yockey, with the I. C. C. number, since I do not happen to have it here.

Mr. HARRY YOCKEY. That is quite all right.

Mr. ANDERSON. At this time, if the Joint Board please, Protestant O. I. M. Transit Corporation offers in evidence Protestants' Exhibit No. 17; and with that, that is all I have—subject, of course, to my supplying Mr. Yockey with the I. C. C. number of Day's Transfer, or a copy of the certificate—I will give you a copy of the certificate, Mr. Yockey, so that you can check it.

Mr. HARRY YOCKEY. All right.

Mr. BARKELL. Protestants' Exhibits Nos. 15, 16, and 17 will be received in evidence.

(Protestants' Exhibits 15, 16, and 17, Witness Williams received in evidence.)

Mr. ANDERSON. Now, if the Joint Board please, I will ask that counsel for applicant cross-examine Mr. Williams right now, if they have any cross-examination of him, because he is going to be compelled to leave immediately.

Mr. HARRY YOCKEY. Just a moment, now. You have offered these exhibits, Protestants' Exhibits 15, 16, and 17, have you?

674 Mr. ANDERSON. Yes; and they have been received.

Mr. HARRY YOCKEY. No.

Mr. ANDERSON. The Chairman just received them.

Mr. HARRY YOCKEY. We asked for an opportunity to examine them and cross-examine the witness upon them.

Mr. BARKELL. Off the record.

(Discussion outside the record.)



Mr. BARKELL. Back on the record. The record shows that the exhibits have been received. Proceed.

Mr. HARRY YOCKEY. Now do I understand that the plan is to withdraw this witness also at this time, temporarily, and have his cross-examination follow a little later on?

Mr. ANDERSON. Well, I do not know whether I can hold Mr. Williams here or not. He is very anxious to get away, and get back to Fort Wayne, and we are ready for him to be cross-examined right now.

Mr. HARRY YOCKEY. Well I thought that you were going to follow the same procedure with this witness that you did with the preceding witness, put him on now, and get his direct examination in, and let the cross-examination follow along later.

Mr. ANDERSON. I did not so understand it.

Mr. HARRY YOCKEY. Well maybe I misunderstood.

Mr. CLARDY. We said nothing at all about having the cross-examination of this particular witness deferred; your  
675 Honors. As I understand it, the witness is compelled to leave just as soon as he can. We stated at the outset that we were putting him on at this time so as to dispose of his testimony, and get ready for the testimony of the shipper witnesses.

Mr. ANDERSON. Yes. The only witness whom Mr. Clardy was holding back, as far as the cross-examination is concerned, was the preceding witness, Mr. Parker, and that was because he was not through with him yet on direct. But we are through with Mr. Williams on direct now, and we are tendering him for cross-examination.

Mr. BARKELL. Proceed with the cross-examination.

Mr. HARRY YOCKEY. Will your Honor indulge us just a moment here.

Mr. BARKELL. All right.

Mr. HARRY YOCKEY. I do not think we will have any cross-examination of this witness, your Honor.

Mr. BARKELL. Are there any further questions of the witness?  
(No response.) If not, the witness is excused.

(Witness excused.)

Mr. BARKELL. Call your next.

Mr. CLARDY. Now your Honor, before this next witness is sworn, there was some question came up here a few moments ago, with respect to whether or not the two points of Three Rivers and Schoolcraft are included in the application. As I understand it, those points are definitely within the application, but some-  
676 body over there at the table of counsel for the applicant said "No," so I do not know whether the record is clear on that or not.

Mr. HARRY YOCKEY. Just a moment, now. What particular route are you talking about, now?

Mr. EGGERS. Off the record.

Mr. CLARDY. Your Honor—

Mr. EGGERS. Or do you want this on the record?

Mr. CLARDY. Yes; I would like to have it on the record, if I may.

Mr. EGGERS. All right.

Mr. CLARDY. Because I think the record, as it now stands, is confused.

Mr. HARRY YOCKEY. What is the question, now?

Mr. CLARDY. You are not eliminating those two towns, are you?

Mr. HARRY YOCKEY. Which two towns?

Mr. CLARDY. Schoolcraft and Three Rivers.

Mr. HARRY YOCKEY. On which route is that?

Mr. CLARDY. On any of the routes that you are asking for here.

Mr. HARRY YOCKEY. I will state if the Joint Board please that we are not eliminating anything. We have testified that we are serving all of the cities and towns, all of the intermediate cities and towns, on the Pennsylvania Railroad.

Mr. CLARDY. Well the reason I raise the question is because you, or somebody over at your table, made an objection, as I recall it, to an inquiry about Three Rivers and Schoolcraft, so we desisted from asking any questions, because somebody over on your side said that they are not included in the application.

Mr. HARRY YOCKEY. They are not included in our list; no.

Mr. CLARDY. Well, your Exhibit No. 7, Applicant's Exhibit No. 7 in this proceeding, specifically lists them, but if we are to understand now that, anything to the contrary notwithstanding, those points are definitely not being requested here, why, that is all right.

Mr. HARRY YOCKEY. They are not in the list.

Mr. BARKELL. All right.

Mr. CLARDY. Mr. Miller.

LEO MILLER was sworn and testified as follows:

Direct examination by Mr. CLARDY:

Q. Your name, Witness.

A. Leo Miller.

Q. Where do you live?

A. Sturgis.

Q. Michigan?

A. Yes.

Q. What is the nature of your business at that point?

A. 100 percent defense work.

678 Q. What is the name of your company?

A. Scoville Manufacturing Company.

By Mr. HARRY YOCKEY:

Q. Scoville Manufacturing Company?

A. Yes, sir.

By Mr. CLARDY:

Q. And that company is engaged in manufacturing what kind of articles at the present time?

A. We are manufacturing shell cases; ammunition box wing-nuts; and gun clamps.

Q. Your company has been engaged in the manufacture of metal products of various kinds for approximately how many years?

A. 30.

Q. Now you testified a moment ago that the principal business of your company at the present time is furnishing the items which you enumerated for national defense?

A. Yes.

Q. Does your company receive and ship in both interstate commerce and intrastate commerce?

A. Yes.

Q. And in so doing, does it have occasion to use both rail service and motor carrier service?

A. Yes.

Q. Particularly now with respect to your motor carrier service, does your company have occasion to ship in interstate commerce to points to the south, particularly toward Fort Wayne, Indiana?

A. No; not now.

679 Q. Was there a time in the past, however, when you did so ship?

A. Yes.

Q. But the change which has been brought about by the outbreak of the war, has eliminated that movement for the present at least; is that correct?

A. Yes.

Q. In normal times, however, was there some considerable volume of movement there—

A. Well; no.

Q. —or was there just an occasional movement, to and from that town?

A. Just occasional.

Q. Now at the present time, witness, your in-bound movements particularly into Sturgis are from what direction?

A. East and west.

Q. You receive some from Chicago, do you?

A. Chicago and Detroit.

Q. In connection with the movements from Chicago, are those at the present time being handled principally by truck?

A. Yes.

Q. At the moment, are you shipping out-bound to points along the route set out on the map here—and I am putting before you now, this map—northward into Michigan, along this red line, or not?

A. Why, yes, sir; we are, but it changes—that is, it shifts  
680 from the red route there, over to Greenville, Michigan.

Q. In other words, it goes north to Grand Rapids.

A. Yes.

Q. And then follows some route slightly to the east.

A. Yes.

Q. Over to Greenville.

A. Yes.

Q. How are you handling that movement at the present time?

A. By Associated Truck Lines.

Q. Now, is there any other movement at the moment that you are handling, either out-bound or in-bound, to or from any point on this red line anywhere between Fort Wayne, Indiana, on the south, and Mackinaw City, Michigan, on the north?

A. Well—

Q. Or is Greenville about the only point?

A. Greenville is the only point.

Q. Prior to the outbreak of the war, however, did you have occasion to, and did you ship to a great many points up and down that route, as well as other points in Michigan?

Mr. HARRY YOCKEY. Just a moment. May I have that question again, please, Mr. Reporter.

(Question read.)

Mr. HARRY YOCKEY. I object to the question, if the Board please, as referring to an intrastate movement, which has no bearing on the issue in this case.

681 Mr. CLARDY. Oh, yes; your Honors, it does have a bearing, because it affects the ability of the carriers already in the field to continue operations, whether interstate or intrastate.

Mr. HARRY YOCKEY. I object to the question also for the additional reason that it does not involve a present condition, but a condition in the past.

Mr. CLARDY. That is exactly why it is important, your Honors, because we want to show that, due to the conditions existing at the present time, the need for any additional service is less than it was prior to the outbreak of the war.

Mr. HARRY YOCKEY. I will stand on my objection.

Mr. BARKELL. You do not claim, do you, Mr. Clardy, that this would give any intrastate authority to the Willett Company?

Mr. CLARDY. No; I do not, your Honor, but I do contend, and this is why I think it is very material, from our standpoint, that the carriers which they want to displace, if the authority which is sought here is granted, have been handling and are handling both interstate commerce and intrastate commerce. The result of the granting of a right here to haul interstate commerce, will undoubtedly be to affect the ability of the carriers already in the field, to operate at all, whether it be in interstate commerce or intrastate commerce. As you suggest, they cannot get intrastate rights here, but the granting of the authority asked for here will affect interstate operations, and in turn, that will affect the  
682 ability of the carriers already in the field, to handle the business, even though the applicant cannot get that authority. If this will affect a carrier at all, it will affect that carrier in its entire service, and that is why I say it is material. I might add, I do not intend to pursue the particular point further than just one or two more questions, merely to show the Joint Board and the Commission just exactly what it will mean.

Mr. HARRY YOCKEY. If the Joint Board please, we are not trying in this case, as I believe I have said repeatedly before, to take any business away from anybody. In line with the decisions of the Commission, we are simply trying to improve the present service. We are not trying to displace anybody, or take business away from anybody. We are just simply trying to improve the present service of the railroad. In my judgment, intrastate commerce is not involved here in any manner.

Mr. BARKELL. The objection is sustained.

Mr. CLARDY. Will you read my last question, please, Mr. Reporter?

(Question read.)

Mr. CLARDY. I will make the offer of proof, then, your Honors, that if the witness had been permitted to answer that question, he would have testified that his company has been shipping to practically all of these points, as well as almost every other point in the state of Michigan.

683 Mr. HARRY YOCKEY. I renew my objection to the offer of proof, if the Board please.

Mr. BARKELL. Sustained.

By Mr. CLARDY:

Q. Now, witness, as I briefly explained to you before you went on the witness stand here, the applicant is seeking in this proceeding the right to institute a new truck service from Fort Wayne,



Indiana, on the south, through Sturgis, Grand Rapids, and Cadillac, Michigan, clear up to Mackinaw City. You understand that, do you?

A. Yes.

Q. At the present time is the motor carrier service that is being offered to you, and in the immediate past, has the motor carrier service that has been offered to you, out of the town of Sturgis, Michigan, by the presently authorized carriers, been sufficient and adequate to meet all of the needs of your company?

A. Very much so; yes.

Q. If a new carrier should be introduced into the field, as is here proposed, by this applicant, and if that should have any effect at all upon the carriers presently in the field in their ability to continue to serve you, would that have some adverse effect upon your present business?

Mr. HARRY YOCKEY. Now just a moment. We want to object to the question, if the Joint Board please, first, because it involves several assumptions, or assumes several conditions 684 that are not involved here. In the first place, the question assumes that this is a new service, and the fact is that it is not a new service. All that is involved here is an attempt to improve the service of the railroad. We are not attempting to invade the field of any other carrier. The Commission has held in a number of these cases, that the service is not a new service, and that we are not attempting to invade the field of any other service. I also object to the question on the further ground that it calls for an opinion of the witness as to what effect the granting of the authority asked for here would have, and this man, up to the present point, certainly, has not been qualified, and cannot be qualified to state what effect it would have in any manner whatsoever.

Mr. CLARDY. Now, your HONORS, that is the applicant's theory of the case, and they are entitled to their own theory, and their own view, of course. But that is not binding on us in any way. We have our own theory of the case, and our theory is, and we are certainly entitled to present proof on that basis, that the mere fact they happen to be operating a railroad here, does not in any way take away the character of this operation as a new truck operation; and therefore, since it is a new truck operation, we are certainly entitled to present our proof, to show the effect that the instituting of this new operation will have upon the carriers that are already in the field, whether they concede that that 685 effect will exist or not.

Mr. HARRY YOCKEY. Now, if the Joint Board please, counsel is getting into the realm of opinion, now, asking this man to give an opinion on a matter that it is for the Joint Board and

the Commission to determine. If they have any concrete evidence to present, to show what the effect of the granting of this application will be, that is one thing, but they are not entitled to ask for the opinion of this witness, or any other witness, on a matter as to which the Joint Board and the Interstate Commerce Commission are to draw the ultimate conclusion.

Mr. BARKELL. Will you go back and read that question please, Mr. Reporter?

(Question read.)

Mr. BARKELL. If the witness knows the answer to that question, he may answer it. The objection is overruled.

Mr. CLARDY. You have just heard the question, witness. Do you have it in mind?

The WITNESS. Yes.

Mr. CLARDY. All right.

The WITNESS. Yes; it will.

By Mr. CLARDY:

Q. How?

A. In one way or another.

Q. Specifically, how?

686 A. Well, if they were to run a truck line, that is, another truck line, through the city of Sturgis, why, it would jeopardize, in my opinion, the operations of the other truck lines that are in existence at the present time, operating out of Sturgis. Through this new set-up, as I understand it, there is going to be a consolidation of shipments, particularly in the business that we are engaged in, which is war work; and the truck lines that are in there at the present time, operating in there right now, have adequate service to take care of us and move the material immediately. In my opinion, at the present time, they are set up in very good shape to take care of all of the shipments out of Sturgis. Of course, as I understand it, this is an interstate proposition, and we do have interstate movements, as well as intrastate movements, in connection with Government work.

Q. By the way, witness, in connection with that last answer, will you tell me again where your in-bound material comes from?

A. Chicago and Detroit.

Q. In connection with movements from Chicago, have you ever had occasion to use rail service?

A. On the in-bound?

Q. Yes.

A. No.

Q. Would you tell us why?

A. (No answer.)

Q. Is that because of the service, or what?

687 A. That is strictly because of the service; yes, sir; because we are able to get our shipments, coming in from either direction, in the following morning, and they are delivered right to our dock at around 7 o'clock in the morning, the following morning.

Q. Do you mean by truck?

A. Yes, sir.

Q. In the present movement by rail, what if any occasion do you have for such service?

A. If I understand your question right, we don't have any occasion for such service, as far as that is concerned, but we do have a movement once in a while into Sturgis from Berne, Indiana. Might I just give an illustration in connection with that?

Q. Yes.

A. We had a shipment that was moved out of Berne, Indiana, along about a month ago, that took approximately one week to get into Sturgis, moving over the Pennsylvania Railroad.

Q. Where is Berne?

A. South of Fort Wayne.

Q. Oh, yes. It is on the present line of the Pennsylvania Railroad, about 25 or 30 miles south of Fort Wayne; is that correct?

A. Yes.

Q. You know, do you not, that at the present time the applicant here, the Willett Company, is running a truck line  
688 through Berne—

A. No.

Q. For the Pennsylvania Railroad?

A. I don't know about that.

Mr. HARRY YOCKEY. Well, now, just a moment. I object to the question, if your Honors please. There is nothing in this record regarding Berne, Indiana, or as to whether the Willett Company does or does not run a truck line through Berne.

Mr. CLARDY. Oh, I beg to differ with you, counsel. Your Exhibit No. 1 in this proceeding shows it. That is the exhibit that you produced here, to show where this service is going to be rendered.

Mr. HARRY YOCKEY. But it does not show that they run into Berne.

Mr. CLARDY. It does not show what kind of service they are giving.

Mr. HARRY YOCKEY. Well, then how is this witness qualified to answer a question of that sort, unless he knows specifically where the truck line runs?

Mr. BARKELL. What is the question?

The WITNESS. I answered it.

Mr. CLARDY. I think you answered that you do not know.

The WITNESS. Yes.

Mr. BARKELL. Well then what is all the argument about?

By Mr. CLARDY:

Q. That is what you said, is it not?

689 A. Yes.

Mr. CLARDY. All right.

Mr. BARKELL. We will let it go at that, then.

Mr. HARRY YOCKEY. All right. I did not know that the witness had answered the question. I did not hear it.

Mr. BARKELL. Neither did I.

By Mr. CLARDY:

Q. At any rate, witness, it took about how long, did you say, to get that particular shipment from Berne, Indiana, into your plant at Sturgis, Michigan?

A. Seven days.

Q. Now at the present time what truck service is your company using—what truck lines?

A. Associated Truck Lines; Grand Rapids-Kalamazoo; Interstate Motor Freight System; Conklin; and Day's Transfer.

Q. Is the service which you are receiving at the present time over the lines of all of those carriers, a uniformly good service?

A. Very much so.

Q. Are they all supplying the equipment to you that you call for?

A. Yes.

Q. And are they giving you the expeditious service that you are requesting of them?

A. Yes.

Q. Has the need for a fast, expeditious service been increased somewhat by reason of the outbreak of the war, and the change in the commodities which you are producing?

690 A. Very much so.

Q. Have those truck lines been able to meet your increased demands in that regard?

A. Yes.

Q. Now witness if the Pennsylvania Railroad should desire to furnish service into Sturgis, in connection with movements coming into Fort Wayne, Indiana, by rail, and there being transferred to a truck line, would it be perfectly agreeable to you if some carrier presently operating—that is, of course, some motor carrier presently operating between Fort Wayne, and Sturgis, were to furnish that service to you?

Mr. HARRY YOCKEY. Just a moment.

The WITNESS. Yes—

Mr. BARKELL. Just a moment, Mr. Witness.

The WITNESS. Pardon me.

Mr. HARRY YOCKEY. I object to the question, if the Board please, on the ground that the witness has testified that he does not use the Pennsylvania Railroad in this service; and furthermore, the question as to whether or not such an arrangement would be agreeable to the witness, is not involved here. There is simply a question of service involved here.

Mr. CLARDY. What Mr. Yockey has said, your Honors, goes merely to the probative value, or the weight to be given to the  
691 testimony of the witness. Every shipper in the United States has a right to express his opinion, or his judgment, as to what he would prefer, in that regard, whether he is shipping a particular way at the present time, or not.

Mr. BARKELL. The witness did testify, I believe, Mr. Yockey as to one shipment at least that he had coming from Berne, Indiana, over the Pennsylvania Railroad.

Mr. HARRY YOCKEY. That is correct, your Honor. I had forgotten about that. I will withdraw the objection, then, because he did testify he had one shipment come in, as you say, from Berne, on the Pennsylvania.

Mr. EGGERS. I would like to ask a question right here. It has been a little bit difficult to hear the witness, and you gentlemen have been moving along rather fast. Is the only thing that he is interested in, now, the movement from Berne, Indiana, to Sturgis, Michigan?

Mr. CLARDY. No.

Mr. EGGERS. Or does he have any other need for service—or any need for other service between Fort Wayne, Indiana, and Sturgis, Michigan, other than a movement from Berne? I would like to know that.

Mr. CLARDY. I will ask the witness.

By Mr. CLARDY:

Q. Do you, witness?

A. No..

By Mr. EGGERS:

Q. No other need?

692 A. No.

By Mr. CLARDY:

Q. At the present time?

Mr. EGGERS. Yes.

A. That is right.



By Mr. EGGERS:

Q. That is right, is it?

A. At the present time.

Mr. HARRY YOCKEY. I have already stated, if the Board please, that I withdrew the objection.

Mr. CLARDY. Very well.

Mr. BARKELL. Let us proceed, then.

Mr. CLARDY. I will rephrase my question, anyway.

Mr. EGGERS. I think he has answered it.

The WITNESS. Yes.

Mr. CLARDY. Very well.

By Mr. CLARDY:

Q. Witness, you have had a rather long experience and acquaintance with the various carriers, motor carriers, that are serving you at the present time, have you not?

A. Yes.

Q. If a carrier were to be permitted to transport freight from Fort Wayne, Indiana to Sturgis, Michigan, and if at some time in the future there should be some need, so far as your company is concerned, for that service, what would be your preference as to whether one of the present carriers should be authorized  
693 to render that service, or a new carrier introduced into the field?

A. One of the present carriers as against a new one?

Q. Yes, sir.

A. Oh, I would say that the present carriers—one of the present carriers should be entitled to perform the service.

Q. Why?

A. Well, for the simple reason that the carriers that we are acquainted with, know our way of operating, our way of doing business at the plant; they are acquainted with our facilities for loading and unloading freight; and as far as that is concerned, they are rendering an adequate service out of Fort Wayne.

Q. Does the experience that you have had with the service of the Pennsylvania Railroad have anything to do with the answer that you just gave?

A. Very much so.

Q. Why?

A. Well, through the service that they have given—or rather, because of the service that they have given into Sturgis.

Q. Well, so that the record may be clear on that, has that service been good, bad or indifferent?

A. Well, perhaps the most diplomatic way of expressing it would be to say that the service has not been good.

Q. All right. Now at the present time is your company one of the largest manufacturing companies, if not the largest manufacturing companies, in the city of Sturgis, Michigan?

A. Well, I don't know about its being the largest, but it is one of the largest, at least, if not the largest.

Q. What size town is Sturgis?

A. Approximately 8,500 people.

By Mr. HARRY YOCKETT:

Q. How many?

A. Approximately 8,500.

By Mr. CLARDY:

Q. There are only a few manufacturing concerns located in that town, are there not?

A. Yes.

Q. About how many?

A. Well—

Q. Besides yourselves.

A. In addition to us?

Q. Yes.

A. Oh, probably four or five.

Q. Now with respect to the volume of business that your company is doing at the present time: By reason of the outbreak of the war, has that gone up, or down, or is it about the same as it was?

A. Oh, it has gone down, considerably.

Q. You have some acquaintance, I take it, have you not, with the other shippers and manufacturers in your community?

A. Oh, yes.

Q. Do you know whether or not just about the same thing has happened to them, as has occurred in your own business?

A. Well I think as to the greater percentage of them, if not all of them, their volume has gone down considerably.

Q. They have likewise been affected adversely.

A. Yes, sir.

Q. Would you tell us who are the other principal manufacturers there at Sturgis.

A. The Harder Corporation; the Kirsch Company; and the Wade Electric Company.

Q. Now those companies, along with your own company, are about the only volume shippers in Sturgis, are they not?

A. To the best of my knowledge, yes.

Q. In other words, the rest of the shippers or receivers of freight at Sturgis are primarily merchants, or persons who are engaged in the retail business, are they not?

A. Why, I imagine that would be about correct, yes, sir. I wouldn't want to say definitely as to that, however.

Q. About how frequent motor-carrier service do you have into your plant, by all of the carriers that are serving you?

A. (No answer.)

Q. In other words, is there one delivery per day, or more than one delivery, and if so, is there a large number of deliveries?

A. Well, the way we operate is, if a carrier has no trucks in Sturgis, we pick up our own freight, unless of course it is  
696 over the 5,000 pound limit; and if it is over the 5,000 pound limit, that probably is moved—there probably is a movement, perhaps once or twice a week.

Q. Do you have several carriers that have stations and docks in your town?

A. Yes.

Q. Which ones are they?

A. Conklin; Inter-State Motor Freight; Associated Truck Lines; and Day's Transfer, to the best of my knowledge.

Mr. CLARDY. You may inquire.

Mr. BARKELL. Cross examine.

Mr. HARRY YOCKEY. Just one or two questions.

Cross-examination by Mr. HARRY YOCKEY:

Q. You testified, Mr. Witness, that this shipment which you said you received from Berne, Indiana, took seven days to get to Sturgis.

A. Yes.

Q. What do you mean by that?

A. How do you mean?

Q. When you say it took seven days.

A. I mean, it was seven days on the road.

Q. Well do you mean by that, seven days from the time you ordered the shipment—

A. No.

Q. — or seven days from the time it left Berne?

697 A. Seven days from the time it left Berne.

Q. Do you know how it traveled?

A. How it traveled?

Q. Yes.

A. I haven't got the slightest idea.

Q. Well, now, you would have been interested if that shipment could have been expedited, as far as the time element was concerned, would you not?

A. Why not necessarily; no, sir; as far as the time element was concerned, but the idea simply was that we needed the material within a certain period of time.

Q. Well what I mean is, if they had been able to save 24 hours in the delivery of that shipment, that is, if they had been able to cut the time involved down that much, it would have helped out just that much, would it not?

A. Well—

Q. That is true, is it not?

A. Yes.

Q. And you would not raise any objection if the Pennsylvania Railroad were to expedite the service on a shipment of that sort, would you?

A. Not necessarily, but—

Q. I mean, you would not have any objection, if the Pennsylvania Railroad could improve that service, would you?

A. How?

698 Q. In expediting it?

A. In what manner?

Q. By cutting down the time of delivery, and giving you a shorter delivery—or a quicker delivery.

A. Well, you say, a shorter delivery.

Q. Yes.

A. How would we anticipate a shorter delivery?

Q. Well, I am just asking you—

Mr. BARKELL. Just answer the question, Mr. Witness.

Mr. EGGERS. Yes; that question can be answered readily enough.

By Mr. HARRY YOCKEY:

Q. What is your answer?

A. You asked me if we would have any objection?

Q. Yes.

A. Why, no, sir; I don't think that we would have any objection to that being done, if it could be done.

Q. Well, it would be beneficial to your business, would it not?

A. (No answer.)

Q. You testified that the thing that you are interested in, is in getting a quick delivery, did you not?

A. Very much so.

Q. Well, then, if the Pennsylvania Railroad was able to shorten the time of its service to you, no matter from what point it might be, that would serve the convenience of your business, would it not?

699 A. Not if you could only improve the service by a matter of 24 hours, it wouldn't; no, sir; where the truck lines can get the shipments into Sturgis in a day's time.

Q. I am not talking about any truck lines, Mr. Witness.

Mr. DES ROCHES. Oh now, just a moment, counsel. I submit, if the Board please, the witness should be given an opportunity to complete his answer.

Mr. HARRY YOCKEY. I thought he had.

Mr. DES ROCHES. I think you interrupted him.

Mr. HARRY YOCKEY. All I am trying to do is get an answer to my question, and my question was with respect to the Pennsylvania Railroad.

Mr. BARKELL. Repeat the question.

Mr. HARRY YOCKEY. All right.

By Mr. HARRY YOCKEY:

Q. I am just asking you now, Mr. Witness, with regard to the service of the Pennsylvania Railroad, and not any truck line, and my question is this: If the Pennsylvania Railroad can improve its service to you by giving you a quicker delivery, that would be an advantage to you, would it not?

A. Absolutely.

Q. All right. That answers that question.

A. It would, absolutely.

Q. Well now, in the question that was asked you regarding your opinion, as to the service of the truck lines, there was involved the question—or the assumption of a knowledge upon your part of what this proposed service by the Pennsylvania Railroad is, in connection with the Willett Company.

A. Yes.

Q. Now, what is your understanding, Mr. Witness, as to how that will affect your particular town of Sturgis, Michigan?

A. Well, my understanding of what is being proposed here is that the Pennsylvania Railroad wishes to install a truck service between—I believe it is Fort Wayne, Indiana, and Mackinaw City, Michigan, for interstate movements only.

Q. All right. And was it explained to you as to how they were going to operate that service?

A. Well, not—I wouldn't say that it has been explained fully to me as yet, no, sir.

Q. Is it your understanding that it is going to be an independent truck service?

A. Not necessarily.

Q. Separate and distinct from the railroad?

A. Not necessarily; no, sir.

Q. Well, then, what is your understanding?

A. My understanding was—and is—that the truck line that is going to render the service is to be owned by the Pennsylvania Railroad.



Q. And how is the service going to be rendered, as you  
701 understand it?

A. (No answer.)

Q. Take for instance a shipment coming to you at Sturgis from Berne, Indiana, today. Was it explained to you as to how that service was going to be rendered, in connection with this truck line?

A. Only in one way.

Q. What was that?

A. Well, if Berne, Indiana, was off of the Pennsylvania line, the truck would leave your route—I mean, the route up and down the Pennsylvania Railroad—

Q. Well, did you think—

Mr. CLARDY. Just a moment.

A. —to either deliver or pick up—

Mr. EGGERS. Let him finish his answer.

Mr. HARRY YOCKEY. I beg your pardon.

A. —either to deliver or pick up freight which is to be drawn over the Pennsylvania line.

By Mr. HARRY YOCKEY:

Q. Have you finished your answer?

A. Yes, sir.

Q. Well did you think the Pennsylvania Railroad was endeavoring to serve you by truck all the way from Berne, Indiana, into Sturgis, Michigan?

A. Well, that I couldn't say, because I didn't even question that. I don't know.

702 Q. Well, then let me give this explanation to you, Mr. Witness, as to what the service that is proposed here really is.

A. I would like to know.

Q. The service that is proposed is this, that if a shipment, an interstate shipment, we will say, came in from Berne, Indiana, to Fort Wayne, no matter how it might come into Fort Wayne, instead of sending that shipment by rail from Fort Wayne north, and having it delayed 24 hours in Fort Wayne, that 24 hours is going to be saved by sending that shipment by a truck of the Willett Company from Fort Wayne, to Sturgis. That is the service that is proposed.

A. I see.

Q. Now then, with that explanation in mind, you would not have any objection to that service, would you?

A. Not as long as the movement was coming in by rail, no, sir, I wouldn't have any objection.

Q. Well, no. I mean, Mr. Witness, if the shipment came by rail into Fort Wayne. Let us take, for example, a shipment from New York; say that some customer makes a shipment to you from New York, and that shipment comes by rail into Fort Wayne, and then, instead of sending it on by rail from there to Sturgis, and having a delay of 24 hours at Fort Wayne, the Pennsylvania Railroad would install the service that is proposed here, namely, that of having that shipment transferred to a truck at Fort Wayne  
703 of the Willett Company, and carried on that truck to your place of business at Sturgis, Michigan, thereby saving you a delay of 24 hours at Fort Wayne. Now, I say, if that were the service, you would not have any objection to that service, would you?

A. Why, no, sir, not, as I say, as long as it was routed over the railroad into Fort Wayne, and you could improve that service by 24 hours.

Q. That is what the evidence in this case shows that we are trying to do.

A. All right.

Q. And that service would not in any way affect your business, except beneficially, would it?

A. No.

Q. All right.

A. But what I am still trying to point out to you is, Mr. Attorney, that it must be a quicker service than 24 hours.

Q. Well, but I mean, if the service was expedited to the extent of saving 24 hours, that would benefit you to the extent of that 24 hours, would it not?

A. Yes.

Q. It would benefit your business to the extent of 24 hours.

A. Naturally; yes.

Mr. HARRY YOCKEY. Now, just a moment, please.

Mr. BARKELL. Are there any further questions?

Mr. HARRY YOCKEY. Will your Honor indulge me for just  
704 a moment here. We may be able to save some time.

By Mr. HARRY YOCKEY:

Q. You ship from Sturgis, do you not?

A. Outbound?

Q. Yes.

A. Oh, yes.

Mr. HARRY YOCKEY. I think that is all.

Mr. BARKELL. Are there any further questions of this witness?

Mr. EGGERS. Yes.

By Mr. EGGERS:

Q. Just so that we clearly understand your testimony, Mr. Witness, as far as this application here is concerned, you are interested as far as interstate commerce is concerned, only in movements from Berne, Indiana—or rather, I should say, between Berne, Indiana, and Sturgis, Michigan.

A. Yes.

Q. Is that correct, now?

A. Yes, sir.

Q. And other than that, if I understood your former testimony correctly, you have no need for any service to Fort Wayne, or on any other portion of this route that the applicant is seeking. Is that correct, now?

A. That is right.

Q. I mean, as far as interstate commerce is concerned.

A. Yes.

Q. That is correct, is it?

705 A. Yes, sir.

Q. All right. Now, then, how often do you have any occasion at the present time to use transportation service into or out of Berne, Indiana, into or out of Sturgis, Michigan?

A. Between Berne and Sturgis?

Q. Yes.

A. Perhaps once a month.

Q. Once a month?

A. Yes.

Q. What is the volume?

A. Carload.

Q. Carload?

A. Yes.

Mr. EGGERS. All right. I believe those are all of the questions that I have.

Mr. BARKELL. Are there any further questions of the witness?

Mr. HARRY YOCKEY. May I just ask the witness one other question, if your Honor please, regarding that particular shipment from Berne.

By Mr. HARRY YOCKEY:

Q. Was that a carload shipment—

A. Yes.

Q. Or a less-than-carload shipment?

A. That was a carload shipment.

Mr. HARRY YOCKEY. All right.

706 Mr. EGGERS. Just one more question.

By Mr. EGGERS:

Q. Do you use the railroad company to handle all of those shipments?

A. Yes.

Mr. EGGERS. All right.

Mr. BARKELL. Mr. Clardy.

Mr. CLARDY. Just one or two questions.

Redirect examination by Mr. CLARDY:

Q. Witness, prior to the outbreak of the war, the the situation of your company there at Sturgis, with regard both to in-bound and out-bound movements, was a great deal different, as compared with the present time, was it not?

A. Very much so; yes, sir.

Q. So that presently, as you have indicated, your need for service, so far as this present application is concerned, is a great deal less than it was prior to the outbreak of the war?

A. Yes.

Mr. CLARDY. That is all.

Mr. BARKELL. Is there anything further?

Mr. CLARDY. Oh, yes, your Honor. I beg your pardon. There is another question.

By Mr. CLARDY:

Q. Witness, you started to answer a question put to you by Mr. Yockey a moment ago here, and you were either cut off, or for some other reason, you did not finish your answer. The question was asked of you as to whether or not a 24-hour improvement in service would be of any advantage to you, that is, if the railroad improved its service by 24 hours. You started to answer that question, and you began to say something to the effect that if they could only improve the service by 24 hours—and then, as I recall it, you stopped. Do you recall that answer?

A. Yes.

Q. Would you just continue on from where you left off, now, with what you had in mind, so that the record may be complete?

A. Yes, sir. What I was going to say was, that if they can only improve their service by a matter of 24 hours over what they are giving now over that short distance, it isn't going to help us very much, although I will have to admit, of course, that 24 hours is 24 hours—as far as helping us is concerned.

Q. At the present time are you receiving any shipments by truck from Berne, Indiana?

A. No.

Q. That is a distance of about how many miles, from Berne, Indiana, to Sturgis, Michigan?

A. I would say, about 90.

Mr. CLARDY. That is all.

Mr. BARKELL. Mr. Yockey?

Mr. YOCKEY. I would just like to clear up one thing with the witness, please.

Re-cross-examination by Mr. HARRY YOCKEY:

708 Q. Mr. Witness, that particular shipment that you referred to, that took seven days, as you say, to get from Berne, Indiana, to Sturgis, Michigan, was a carload shipment, was it?

A. Yes, sir.

Q. I would like to explain to you further in connection with this proposed service, that there is no intention of attempting to improve that particular carload service for you.

A. I see.

Q. So that the saving of 24 hours that we were talking about, would not be involved in connection with carload shipments.

A. Just less-than-carload?

Q. Just in connection with less-than-carload shipments.

A. I see.

Q. And as I understand it, you are not receiving any less-than-carload shipments by rail at the present time, are you?

A. No.

Q. None at all.

A. No, sir.

Mr. HARRY YOCKEY. That is all.

Mr. BARKELL. Is that all?

Mr. CLARDY. Nothing further.

Mr. BARKELL. If there are no further questions, the witness is excused.

(Witness excused.)

Mr. BARKELL. Call your next.

709 Mr. CLARDY. Mr. Nyman.

E. O. NYMAN was sworn and testified as follows:

Direct examination by Mr. CLARDY:

Q. Your name, Witness.

A. E. O. Nyman.

Q. Where do you live?

A. Petoskey, Michigan.

Q. I believe that you are associated with a business concern in that town, are you?

A. Yes.

Q. What is the name of that concern?



A. Petoskey Portland Cement Company.

Q. In addition to your connection with that concern, I believe that you occupy some official position in the community; is that correct?

A. Yes.

Q. What is that?

A. I am councilman, and also acting mayor at the present time.

Q. Now, Witness, would you tell us the nature of the business of the company by which you are employed.

A. Cement manufacturing.

Q. And does your company have occasion to both ship and receive merchandise?

A. Yes.

710 Q. In connection with the in-bound movements, what commodities are involved?

A. Well—

Q. What do you receive?

A. Repairs, machinery, and the like of that.

Q. Bags?

A. Yes.

Q. And do you receive those both from points in Michigan, and from points outside the state of Michigan?

A. Yes.

Q. Now, in connection with the out-bound movements of your company, what commodity—or what commodities do you ship?

A. Oh, as far as out-bound movements are concerned, we ship practically nothing by common carrier truck.

Q. Practically all of your out-bound movement is cement, is it?

A. Yes.

Q. Moving—

A. And stone.

Q. Pardon me?

A. Cement and stone.

Q. Yes. Moving principally in carload lots?

A. Moving in carload lots; yes, sir; and also by commodity trucks.

Q. By that do you mean truckload as well as carload?

A. Yes.

711 Q. You also ship by water, I believe; is that correct?

A. Well; yes, sir. That is in bulk to our warehouses.

Q. Now, in connection with your in-bound movements in particular, Witness, what motor carrier is furnishing you that service—or what motor carriers on the less-than-truckload quantities that you receive?

A. Parker Motor Freight.

Q. How long has that company been serving you?

A. I would say between 10 and 15 years.

Q. And has that company uniformly given you good service over that period of time?

A. Yes.

Q. Now, Witness, I believe that we briefly explained to you this morning the fact that the Pennsylvania Railroad Company is seeking the right under this application to have this applicant inaugurate a less-than-truckload operation by trucks that would come into your town.

A. Yes.

Q. You recall our discussion in that connection, do you?

A. Yes, sir.

Q. At the present time, are you receiving any shipments by rail in-bound at your plant?

A. Some.

Q. Are you receiving anything in-bound that comes in from the south, from points outside the state of Michigan?

712 A. Yes.

Q. From where?

A. Chicago, Detroit, and Cleveland.

Q. Are those shipments being presently handled primarily by motor vehicle?

A. Not altogether; no.

Q. To what extent?

A. I would say about 75 percent.

Q. How does the service, as to the time element involved, between, say, Chicago and your town of Petoskey, Michigan, talking now about the truck service, compare with the all-rail service?

A. Truck versus rail?

Q. Yes, sir.

A. Well, I would say that there would be probably a couple of days saving in the time required to get the stuff in.

Q. By truck, do you mean?

A. Yes, sir.

Q. Now, The Pennsylvania Railroad Company here is trying to show, or at least it is claiming that if this service is permitted to be inaugurated, there will be a saving of time at some points of from 24 hours to 48 hours. As to how much will be involved here, the testimony, if I recall it correctly, is not very clear, but I think it is approximately 24 hours. In any event, let us assume,

713 for the purpose of my question, that they are going to improve their service by the maximum saving of 48 hours in connection with movements from Chicago. Would that still in any way be an improvement over the present motor-carrier

service that you are now receiving, as far as the time element is concerned?

A. No.

Q. Do you have occasion to come into contact with the other shippers and receivers of freight at your town, or the majority of them, at least?

A. Yes; occasionally.

Q. Are there many other large shippers and receivers of freight in your community?

A. Well, as far as manufacturing plants are concerned, there are two other manufacturing plants located in Petoskey in addition to our own.

Q. What are they?

A. There is the Michigan Maple Block Company, and the Michigan Tanning & Extract Company. Of course, there are other receivers of freight, such as retail stores, and the like of that, that I assume in the aggregate receive quite a volume of freight.

Q. Yes. However, the other two manufacturing companies that you have just named, in addition to your own, are the principal shippers and receivers of freight at Petoskey, are they not?

A. I would say so; yes, sir.

Q. Now, as far as the out-bound movement is concerned, do you ever have occasion to ship less-than-truckload quantities of your product?

A. Very, very seldom.

Q. When it does move that way, that is, in less-than-truckload quantities, does it move by truck, however?

A. Well, no sir; I don't know that we have ever shipped anything less-than-truckload out-bound by truck, except just very occasionally, and it is very seldom, on account of the cost of the trucking being too high to ship less-than-carload—or rather, I mean to say, less-than-truckload. Therefore, it is very, very seldom done.

Q. If there were such a shipment, then, I take it that it would be to some point relatively close by. Is that correct?

A. Yes.

Q. Where the transportation charges for handling the shipment would be relatively small?

A. Yes.

Q. Is that because of the competitive situation in the cement field?

A. Yes, sir.

Q. Then, would it be true that there would rarely, if ever, be any out-bound interstate movement of your manufactured product?

A. There would not be by truck.

Q. That is what I mean.

A. No.

Q. Or by rail either.

715 A. Less-carload, I take it, you mean?

Q. Yes.

A. No; sir; not by rail either.

Q. Now, Witness, in addition to Parker Motor Freight, do you have any other common motor carrier that is presently serving you?

A. Do you mean, in connection with less-than-carload movements—or less than truckload movements?

Q. In any quantity.

A. Well, yes, sir; we do have a truck line that carries our commodity on a truckload basis.

By Mr. EGGERS:

Q. Is that a contract carrier?

A. Yes.

Q. Is that the operation that you referred to a moment ago, when you spoke of your commodity moving in contract trucks?

A. Yes.

By Mr. CLARDY:

Q. What line is that?

A. That is George F. Alger Company of Detroit.

Q. Handling both interstate and intrastate movements for you?

A. Intrastate; no interstate.

Q. I see. Is there any other truck line that is serving you at the present time?

A. No.

Q. Is the service which Parker Motor Freight is presently rendering you, entirely adequate to meet the needs of your  
716 company, so far as its trucking service is concerned?

A. Yes.

Mr. CLARDY. You may inquire.

Mr. BARKELL. Cross examine.

Cross-examination by Mr. HARRY YOCKEY:

Q. Mr. Witness, did I correctly understand you to testify that at the present time you are receiving quicker service, by two days, by truck, than you are by rail from interstate points?

A. Yes.

Q. Why are you using the trucks in preference to the rail?

A. Because we get the shorter service.

Q. Do you mean, the quicker service?

A. Yes, sir. Because we get the quicker service by truck than we do by rail.

Q. Well, now, then, you do get some shipments by rail, that is, less-than-carload shipments by rail, do you not?

A. Yes.

Q. How frequently?

A. Oh, pretty nearly every day we will get in a shipment of some kind or other—especially our stuff from Milwaukee, Wisconsin, which is quite heavy material.

Q. How does that come in?

A. Pere Marquette.

Q. Through the Fort Wayne gateway?

717 A. Oh, no; that comes across the lake.

Q. Across the lake?

A. Yes; from Milwaukee.

Q. Well, now, you do have some shipments by rail that come through the Fort Wayne gateway, do you not?

A. Some, yes.

Q. By the Pennsylvania?

A. Well, not altogether; no, sir. We have some of it that comes in via the Pennsylvania, but it is mostly Pere Marquette, I would say. Most of our stuff comes in via the Pere Marquette, on account of the fact that we are located on the Pere Marquette there at Petoskey.

Q. But if the freight that came in, interstate, through the Fort Wayne gateway, could be improved 24 hours—that is, if the service, or the delivery time of that freight could be improved by 24 or 48 hours, that would be beneficial to your company, would it not?

A. Why, not necessarily so; I would not say so; no, sir; unless it was an improvement over what the truck lines are doing at the present time—or what they could do.

Q. I am not asking you about what the truck lines are doing, or with relation to what the truck lines are doing. I am just talking about the business that is being transported in to you by rail.

A. That is what I am talking about.

718 Q. Well, now, my question is, if that particular rail business could be expedited, or the time of delivery shortened, by from 24 to 48 hours, that would be beneficial to you—or to your company, would it not?

A. Well, yes, sir; but it would be only beneficial to that extent, from 24 to 48 hours.

Q. That is what I say.

A. Yes.



Q. No matter whether it is cut off the time of handling by truck line, or by the rail line.

A. Yes.

Q. Well, now, then, has it been explained to you that that is what the Pennsylvania Railroad is trying to do here; that it is trying to expedite by 24 to 48 hours the movement of freight in its rail service?

A. Well—

Q. Was that explained to you?

Mr. BARKELL. Just answer the question.

A. No.

By Mr. HARRY YOCKEY:

Q. Well, now, if that is the fact, Mr. Witness, you would not have any objection to that particular service, would you—or to that improvement, rather, in the service?

A. Well, the thing that I have in mind is just this; I can't see where they are going to improve it any, to improve the service any, by having to take it out of the car and load it on to the truck.

Q. No.

Mr. BARKELL. Just answer the question, Mr. Witness.

A. What is the question again?

By Mr. HARRY YOCKEY:

Q. I say, if they do that, you would not have any objection to that improvement in the service, would you—if they can shorten your service by from 24 to 48 hours?

A. 24 to 48 hours?

Q. Yes, sir.

A. Well, they would have to shorten the service a whole lot more than that, I would say, in order to help us any.

Q. Well, but I mean, if they did do that, to that extent, at least, it would be beneficial to your company in its business, would it not?

A. Well—

Q. To that extent, that is.

A. Slightly.

Q. All right.

A. But not very much.

Q. That would put it on a parity with the service that you are getting from the trucks, would it not?

A. (No answer.)

Q. You say that the truck service at the present time is only beating the rail service by a couple of days.

Mr. CLARKE. "Only"?

A. Well, now, I don't know about that, because, of course, there is a delivery after the shipment reaches destination—

By Mr. HARRY YOCKEY:

Q. I am not asking you about that, now, Witness. The only thing that I am asking you about now is as to whether or not, if the railroad, The Pennsylvania Railroad, does cut off from one to two days in the time of delivery of the shipments to your place of business at Petoskey, Michigan, on interstate shipments, that is, that would be beneficial to your business, and you would not have any objection to that; that is correct, is it not?

A. Well, what I am trying to tell you is, that it would not help us any over the service that we are getting now.

Q. But it would help you, or be beneficial to that extent, at least, as far as railroad shipments are concerned, would it not?

A. Well, now, I may be a little bit dumb about this whole thing, sir, but I cannot see where it would help us any.

Q. Well, now—

Mr. EGGERS. Just a moment, Mr. Yockey. It appears to me, at least, that these questions are all very simple, and are susceptible of being answered by yes or no. I do not see why we have to have a lot of hedging around here.

Mr. CLARDY. Your Honor—

Mr. EGGERS. Just a moment, now, Mr. Clardy. What I am interested in right now is in getting a direct answer to some of these questions, that can very readily be answered by a direct answer. We have been spending a lot of time here, and getting no answer at all to questions that can be answered by yes or no. It appears to me, at least, that there has been a lot of hedging here, and I just want to say that I have no sympathy with that sort of procedure at all.

Mr. CLARDY. Your Honor, I think your Honor is missing the import of what the witness is trying to tell you. What this witness, in substance has said, is this: "Why, sure, if the Pennsylvania Railroad did decrease the time from 24 to 48 hours, it would naturally speed up the service that much," but he has also attempted to say something else, following that—and I think that is the important point, so far as all of this kind of testimony is concerned—and that is this, that even if they did speed up the service to that extent, it would not help him or his company a bit, as against the service that is presently available.

Mr. EGGERS. All right.

Mr. CLARDY. Now, that is what the witness has said, and I submit that there has not been any hedging about that at all.

Mr. EGGERS. That is all right. If you have anything further that you want to develop from the witness, you may bring it out on redirect examination.

Mr. BARKELL. Proceed.

722 Mr. HARRY YOCKEY. I have no further questions to ask this witness, your Honor.

Mr. BARKELL. Is there any redirect?

Mr. CLARDY. Yes.

Redirect examination by Mr. CLARDY:

Q. Witness, did I correctly state just now to the Joint Board member, the substance of what you have been trying to say here?

A. You did.

Q. In other words, if I correctly understand your testimony, it would not make any particular difference to your company how much The Pennsylvania Railroad speeded up its service; if they did not go any further than they have indicated here, they still would not be giving you any better service—

A. No.

Q. —as compared with what you can presently get, would they?

A. That is right.

By Mr. BARKELL:

Q. Did I correctly understand you to say, Mr. Witness, that your company uses rail service?

A. Yes; some.

Q. Well, now, if the rail service was improved to the extent of 48 hours, would that be beneficial to your company, or not?

A. Yes; absolutely it would.

Mr. BARKELL. Well, now, that is the answer to the question. I do not see why we had to take so long in getting it.

723 Mr. CLARDY. Yes, that answers it.

Mr. LINDSTRAND. I would like to ask a question or two, your Honor.

Mr. BARKELL. Go ahead.

Recross examination by Mr. LINDSTRAND:

Q. Mr. Witness, is the plant of the Petoskey Portland Cement Company located within the corporate limits of Petoskey?

A. No.

Q. Is it in a community, or at a location commonly known as Lansing?

A. Yes.

Q. How many miles is that from Petoskey?

A. Oh, something over three miles.

Q. Is that on the Pere Marquette Railroad?

A. Yes.

Q. And the Pere Marquette Railroad is the only railroad that serves that plant, is it?

A. Yes.

Mr. LINDSTRAND. That is all.

Mr. BARKELL. Is there anything further?

Redirect examination by Mr. CLARDY:

Q. Now, Witness, you started to say something else a moment ago, that you did not complete, and that I want to find out about. You started to say something about delivery after a shipment gets to your town. Do you recall that?

A. Yes.

Q. What did you mean by that?

A. Well, what I meant by that was this, that the trucks at the present time deliver our merchandise to the plant, whereas, we have to pick it up from the railroad, if it comes in by rail.

Q. In other words, then, even if the railroad company were to give you a 24 to 48 hour faster rail service, there still would be an advantage with the trucks?

A. Yes.

Q. In delivering the shipments to you?

A. That is right.

Mr. HARRY YOCKEY. Now, just a moment. I want to object to that, if the Joint Board please. The witness got his answer in before I had an opportunity to interpose my objection.

Mr. BARKELL. State your objection.

Mr. HARRY YOCKEY. That is not involved in this proceeding in any way whatever, a comparison as between the rail service and the truck service. That has no bearing on the issue here at all. All that is involved here is a question of improving our services.

Mr. CLARDY. Now, your Honors, I do not intend for one moment to be drawn off by counsel into that morass, and that is why I stated what I did to your Honors a few moments ago here,—if you will pardon me. The whole point, the whole issue in this case, from our standpoint, is precisely that, and the rails are attempting to camouflage the issue, as they have in the other cases, by making it appear that in order to get an extension, they need merely to say that they are doing a lousy job now, but they can do a better one if they get the authority that they are asking for here. Now, our point is that the testimony which this witness has given is the only real testimony that has thus far been offered in this case by a shipper witness. The fact that the railroad can do better than it has in the past is neither material nor competent here.

Mr. BARKELL. Well, we are not going to argue that question now. The question has been answered, and the answer may stand.

Mr. CLARDY. Thank you. That is all.

Mr. BARKELL. Is there anything further?

Mr. HARRY YOCKEY. That is all.

Mr. BARKELL. If there are no further questions, the witness is excused.

(Witness excused.)

Mr. BARKELL. Call your next.

Mr. CLARDY. Mr. Schmitt.

F. J. SCHMITT, Jr., was sworn and testified as follows:

Direct examination by Mr. CLARDY:

Q. Your name, Witness.

726 A. F. J. Schmitt, Jr.

Q. Where do you live?

A. Petoskey, Michigan.

Q. The same town as the last witness?

A. Yes.

Q. What is the business with which you are connected?

A. Michigan Maple Block Company.

Q. That is one of the two other manufacturing companies at Petoskey, Michigan, that the last witness named, in addition to his own, I believe.

A. Yes.

Q. Was he also correct in his statement that your company is one of the three large manufacturers located at that point?

A. Yes, sir.

Q. Your company has been in business there at Petoskey for approximately how many years?

A. 40 or 50.

Q. What is the product that is manufactured at shipped by your company?

A. Butcher blocks; die blocks; table tops; and flooring.

Q. Does that business entail the use of both truck and rail service for transportation?

A. Yes.

Q. Now, taking up first your in-bound movements; do you receive anything by either rail or truck in-bound, from points  
727 outside the state of Michigan?

A. Yes; both.

Q. In the inbound movement, do you ever use rail service on less than carload shipments?

A. I believe some; yes.

Q. And do you use the trucks in that same movement?

A. Yes.

Q. The trucks handle, do I gather from your testimony, the predominant part of the business?

A. I believe they do on the less than carload; yes, sir.



Q. Do you receive shipments from such places as Chicago?

A. Yes.

Q. Indianapolis?

A. Chicago, Detroit, and Grand Rapids.

By Mr. EGGERS:

Q. Did you say Grand Rapids, Mr. Witness?

A. Yes.

Mr. EGGERS. Let us restrict the testimony to interstate movements only.

Mr. BARKELL. Yes.

Mr. EGGERS. As much as possible.

Mr. CLARDY. I am merely laying a foundation, your Honor, to show what his business is.

Mr. EGGERS. Detroit and Grand Rapids, and similar points, are not what we are interested in here.

Mr. CLARDY. But I want to show, your Honor, what per-  
728 cent of his business—

Mr. EGGERS. Restrict it to interstate points, as much as you possibly can.

By Mr. CLARDY:

Q. What part of your business is interstate, Witness, as far as the inbound movement is concerned, and about what part of it is intrastate?

A. Well, now, that would be a pretty difficult question for me to answer. I don't have any figures here.

Q. Well, is the bulk of it, would you say, from points in the state of Michigan, or from points outside of Michigan; or is it about even?

A. Well, no, sir. I would say that the bulk of the business coming in, is from out of the state, points outside of the state.

Q. All right. Now, further in connection with your inbound movement from points outside the state, is that principally truckload or less than truckload.

A. Most of it would be less than truckload.

Q. Has the Parker Motor Freight been serving you in your inbound movement for some time?

A. Yes.

Q. For about how long?

A. Oh, since about 1929, or 1930.

Q. Has the service which that company has been giving you been satisfactory, so far as the transportation needs of your company are concerned?

729 A. Yes.

Q. Now, you have been present here, and heard some of the discussion with the other witnesses, about the kind of service

that the railroad is proposing to have the applicant inaugurate here, have you not?

A. Yes.

Q. You understand, then, do you not, Witness, that it is proposed here to start a new truck service to be used in connection with less than truckload movements exclusively?

A. Yes.

Q. At the present time, taking your movements from Chicago, one of the points that you just named: you are presently getting an over-night truck service from that point, are you not?

A. Yes.

Q. Do you recall about how long it takes the rails to move a shipment from Chicago to your town?

A. No.

Q. A less than truckload shipment?

A. No, sir; I don't. I wouldn't be able to specify any particular time just offhand on that. However, I don't believe that we have ever received an over-night shipment. The reason that we like to use truck service as far as our inbound less than carload freight is concerned, is because if we want a part, for example, that is coming over from Chicago, the truck leaves Chicago sometime  
730 after six o'clock in the evening, and we get that part either the next morning, or the next afternoon at approximately two o'clock. I don't believe that we have ever had service that fast by train—that is, by rail.

Q. Now, your company also makes shipments outbound, does it not, Witness?

A. Yes.

Q. What use are you making of both rail and truck service in that movement?

A. Why, I believe as far as tonnage is concerned—I take it that is what you mean—

Q. Yes.

A. —the rail gets the majority of it. However, we have approximately one truckload, I would say, leaving the plant every day.

Q. Is your rail movement confined primarily to carload shipments?

A. We have both.

Q. Both?

A. Yes, sir.

Q. In about what relationship—

A. Well—

Q. —or what percentage?

A. I wouldn't want to answer that question.

Q. Pardon me?

731 A. I mean, I wouldn't want to try to answer that question, because I really don't know.

Q. Well, does the amount that is moving by carload, however, predominate?

A. I believe so; yes, sir.

By Mr. EGGERS:

Q. Now, Mr. Witness, just to be sure that the record is straight, what you are talking about now is both interstate and intrastate?

A. Yes.

Q. Is that correct?

A. Yes.

Q. You are not restricting it to interstate, now?

A. No.

Mr. CLARDY. Well, now—

The WITNESS. Pardon me.

Mr. CLARDY. Yes.

The WITNESS. I just wanted to add, our shipments coming into and going out of Petoskey, in the state, that is, intrastate shipments, are very small, I would say. We ship all over the United States.

Mr. EGGERS. All right.

By Mr. CLARDY:

Q. So that the proportion of intrastate business in your out-bound movements would be negligible, then, would it?

A. Yes.

Q. The majority being destined out of the state?

A. That is right.

732 Q. Now, I believe in that answer you were referring to rail movement.

A. Yes.

Q. Referring now to the movements by truck, do those also go principally to points outside of the state?

A. I would say so; yes, sir. In other words, we maintain a warehouse in Chicago, and we get over-night service out of Petoskey; and naturally, being in the manufacturing business, we like to manufacture during the daytime, and then the truck leaves there every night at five o'clock, and the next morning it is in Chicago.

Q. So that, then, Witness, no matter how much of an alleged improvement may be involved if this application is granted, unless you would be able to get a service better than next-morning into Chicago, there would not be any advantage to your company, would there?

A. I cannot see how there would be.

Q. If the application should be granted, and the railroad company should succeed in giving you next-morning delivery out of Petoskey into Chicago, would that have any tendency to split the business that Parker Motor Freight is presently handling for you?

A. As I understand it—if I recall correctly—the railroad company is planning on having a truck out of Petoskey at around 10:30 in the morning.

733 Q. That is their present schedule.

A. Well, it would be much better for us, as far as we are concerned, to have a truck leaving Petoskey in the latter part of the day, and arriving at Chicago in the morning, due to the fact that we have ample time, then, to fabricate the merchandise, and get it ready for shipment that night.

Q. Is it the custom of your company to endeavor to fill its orders on the same day that it receives them?

A. No.

Q. Or as nearly that as you can?

A. No, sir; it is absolutely impossible for us to do that, because we are too far behind as it is. When we get the merchandise made, however, then we want our customers to get it just as rapidly as possible.

Q. Yes. Is it true that the present operating schedules of Parker Motor Freight out of your town, have been meeting the needs of your company?

A. Yes, sir; I should say they have. They have served us excellently to the points that I have mentioned.

Q. Well, then, Witness, is there any present need, insofar as your company is concerned, for any additional truck service to or from those towns?

A. I don't believe so; no.

Q. Was the witness who just preceded you on the stand correct in saying that in addition to your company and his company,  
734 there is still one other manufacturing concern in your town?

A. Yes, sir; that is correct—the Michigan Tanning & Extract Company. I believe he mentioned them.

Q. And those three concerns represent the bulk of the business that is handled into and out of Petoskey, would you say?

A. Yes.

MR. EGGERS. I am very sure that that is in the record at least two or three times, now.

MR. BARKELL. Yes; it is in the record. I recall that a couple of times, anyway.

Mr. CLARDY. Well, I did not intend to repeat anything, your Honor. I did not recall having asked that before.

By Mr. CLARDY:

Q. At any rate, Witness, those three companies represent the bulk of the shipping requirements at your town; is that correct?

A. Yes.

Mr. CLARDY. You may inquire.

Mr. BARKELL. Cross examine.

Cross examination by Mr. HARRY YOCKEY:

Q. I believe, Mr. Schmitt, that you stated you do use the service of The Pennsylvania Railroad to points other than Chicago.

A. Well, I don't recall whether I stated that specifically or not, but that is the fact, yes, sir.

Q. That is, on out-bound shipments.

735 A. How?

Q. On out-bound shipments.

A. Oh, yes.

Q. To approximately how many points, over the entire country, would you say that your out-bound shipments go?

A. Well—

Q. Just generally?

A. Oh, the only way that I could answer that question would be to say that they go all over the country, and to some European countries also.

Q. Are there many of your outgoing shipments that are less-than-carload shipments?

A. Oh, yes.

Q. Now, referring to your inbound shipments coming in by The Pennsylvania Railroad in less-than-carload quantities, interstate, do you have many of those coming in from points other than Chicago?

A. Some.

Q. You do have some?

A. Yes.

Q. Well, now, I take it, Mr. Witness, that you are using truck service at the present time to Chicago, by reason of the fact that the trucks are giving you a quicker delivery time than you are obtaining by rail; is that correct?

A. Yes.

736 Q. Is that one of the factors, at least?

A. Yes.

Q. I mean, that is not all of them. There may be others, but at least that is one of them, is it not?

A. Yes.



Q. Well, now, then, as to those points other than Chicago where you are shipping by The Pennsylvania Railroad, less-than-carload freight, if the railroad can, by instituting a truck service part of the way, shorten the delivery time at destination of those railroad shipments, that would be beneficial to your business, would it not?

A. I am sorry, but that was kind of a long question, and I don't believe I just follow you there. Would you mind repeating it, please.

Mr. HARRY YOCKEY. Will you read it Mr. Reporter.  
(Question read.)

By Mr. HARRY YOCKEY:

Q. That is, if the railroad, by having the applicant institute this service, can shorten the delivery time of those shipments by from 24 to 48 hours, that would be beneficial to your business, would it not?

A. If they could make a direct delivery to our plant.

Q. Well—

A. You see, the only thing is—

Q. Regardless of how—

Mr. CLARDY. Just a moment. Let the witness finish.

737 Mr. BARKELL. Go ahead and finish your answer.

A. I was just going to add, the only thing is, that we do not care to have our merchandise transferred too many times, you understand; due to the fact, principally, that it is pretty heavy merchandise.

By Mr. HARRY YOCKEY:

Q. But on the other hand, if they can overcome the normal difficulties that may arise, and they can shorten the time from 24 to 48 hours, that particular phase would be beneficial to your business, would it not?

A. Naturally so.

Mr. CLARDY. Just a moment, Witness. Having in mind the fact that at the last hearing, you overruled my objection to that kind of testimony, I would like to have the record clearly show now the understanding that there is to be a continuing objection to all that sort of testimony, without repetition, so as not to burden the record.

Mr. BARKELL. All right.

Mr. CLARDY. I am just reminding you of that now.

Mr. BARKELL. It is so understood.

Mr. CLARDY. Just so that somebody reading the record after it had gotten cold, will not wonder why I did not say anything.

Mr. BARKELL. It will be so understood.

By Mr. HARRY YOCKEY:

Q. Now, then, the same thing would be true, would it not, as far as your in-bound shipments are concerned? It would be beneficial to your company if the Pennsylvania Railroad, handling interstate shipments into your plant, could expedite the movement of those shipments by from 24 to 48 hours?

A. Our shipments in—

Q. Now, just a moment, Mr. Witness. Just answer my question first, please, and then make your explanation.

A. Why, naturally, if we could get them quicker.

Q. That is what I say.

A. Naturally, it would benefit us.

Q. Yes.

A. But you should let me have an opportunity to finish my question—or rather, I mean to say, to finish my answer.

Q. Certainly.

A. I was going to say that our in-bound movement from points outside of the state of Michigan is not a very great deal, as far as less-than-carload movement is concerned.

Q. But then, to whatever extent it is, it would benefit those particular shipments, would it not?

A. Well, it would, yes—

Q. Yes.

A. If they could beat the truck.

Q. Well, now, I mean, as far as rail shipments are concerned. That is all I am talking about. I mean, just taking the rail service itself, expediting the service over the rail, plus the rail-truck service: if they can expedite that, it will benefit your business, will it not?

A. Sure.

Q. All right.

A. If they can get it there quicker.

Q. That is what I say.

A. Naturally.

Mr. HARRY YOCKEY. All right. That is all.

Mr. LINDSTRAND. Just a question or two.

By Mr. LINDSTRAND:

Q. Mr. Witness, are there any less-than-carload shipments going to government camps?

A. Of ours?

Q. Yes.

A. Yes, sir; all over the country.

Q. And does the government specify the routing in connection with those less-than-carload shipments?

A. Well, now, let me get your question straight. Does the government specify the routing—

Q. As far as the origin point is concerned, they do specify the routing, do they not?

A. How is that again?

Q. I say, they do specify the routing from the original point, do they not?

A. Why, yes, sir; that is correct, on the merchandise that is on direct contract with the government.

Q. Do you pay the freight charges, or does the government pay the freight charges?

A. Both.

Q. Both ways?

A. Yes.

Q. Your plant at Petoskey, Michigan, is located on a Pennsylvania Railroad siding, is it not?

A. Yes.

Q. Do you have an interest in any truck line?

A. No.

Q. You have not?

A. No.

Mr. LINDSTRAND. That is all.

Mr. BARKELL. Mr. Clardy?

Redirect examination by Mr. CLARDY:

Q. Witness, you do not have any interest in any railroad either, do you?

A. No.

Mr. CLARDY. That is all.

Mr. DES ROCHES. I have a question or two, if the Board please.

By Mr. DES ROCHES:

Q. Are you the prime contractor?

A. (No answer.)

Mr. BARKELL. How is that again?

Mr. CLARDY. They are the shipper.

The WITNESS. I didn't get that.

741 By Mr. DES ROCHES:

Q. Are you the prime contractor, as far as the United States government is concerned?

A. Yes.

Q. What do you manufacture direct for the United States government?

A. Oh, butcher blocks and table tops, that are used in the kitchens, in the cantonments, and that are also used in powder plants, arsenals, and airplane plants.

Q. And in the case of the balance of your work, that is not being done direct for the government, you are working as a subcontractor to a prime contractor; is that correct?

A. Yes.

Q. What percentage of the work that you are doing at the present time is as a subcontractor, would you say?

A. Well, at a guess—

Q. Approximately.

A. I would say from about 50 per cent to 60 per cent of what we are doing right now, is being done as a prime contractor.

Q. 50 to 60 per cent?

A. Yes, sir.

Q. You have complete control over the routing in connection with all of your subcontracting work, have you not?

A. Yes.

Q. Now, as I understand the situation, your transportation service at the present time is satisfactory; is that correct?

742 A. If you will pardon me—

Q. Sir?

A. Going back to my last answer, or rather, to my previous answer, I would say, we have in most instances.

Q. Control?

A. Yes, sir. Sometimes, however, the customer will send us a routing. I just wanted to correct myself on that, when I answered "Yes" to your question; because we do not always have complete control.

Q. Sometimes the customer will direct the routing.

A. Yes.

Q. As I understand the situation, however, as far as transportation service is concerned, you are perfectly satisfied with the transportation service which is available at the present time; is that correct?

A. Yes.

Q. And you are not interested in getting any additional transportation service, are you?

A. Well, of course, it would be perfectly satisfactory, as far as that is concerned, to have additional service. That is, if we could have a truck out of the plant every day, why, we would like that—or rather, I mean to say—I beg your pardon—every hour; that would be all right, but that is impossible.

Q. You do not expect that?

743 A. No, sir; we do not. As I say, under the arrangement that we have there at the present time, we do our manufacturing during the daytime; then what merchandise we have going, we will say, to Marshall, Michigan, or to Grand Rapids, or to Chicago, will get there the next morning. We ship

it out at five o'clock in the afternoon, and it is there by the next morning. Now, as far as the railroad company is concerned, it has never yet been able to give us service like that.

Q. Well, let us put it this way, Mr. Witness: You have no complaint to register about the existing transportation service, have you?

A. No, sir; none whatever.

Mr. DE ROCHES. That is all.

Mr. BARKELL. Is that all?

Mr. CLARDY. Just a further question or two, please.

By Mr. CLARDY:

Q. Witness, the testimony which has thus far been presented, dealing with the schedule proposed by the railroad company, if this authority is granted, as shown by their witnesses, or one of their witnesses—I have forgotten now whether it was Mr. Christie, or the other one—indicates that they are going to leave Petoskey around 10 o'clock in the morning, and they are basing their contentions thus far in the case, with respect to some alleged or claimed saving, upon a schedule leaving there at that hour. Now, would that effect any saving to you, so far as your over-all transportation needs are concerned, if their trucks should leave  
744 your town at that particular hour?

A. Why, as I stated before, we would like to have our shipments go out the latter part of the afternoon.

Mr. EGGERS. You have been over that before with the witness, Mr. Clardy.

Mr. BARKELL. Yes; you have been all over that at least once. I recall that very clearly.

Mr. HARRY YOCKEY. Yes; he has.

Mr. CLARDY. I do not recall addressing that particular question to the witness, your Honor.

Mr. BARKELL. I believe he has answered several questions to that effect.

Mr. EGGERS. Or, at least, he has made that statement.

Mr. HARRY YOCKEY. In any event, the answer is the same.

Mr. BARKELL. I am sure that is in the record several times, now.

Mr. HARRY YOCKEY. We are never going to get through here, if there is this constant repetition.

Mr. CLARDY. As I say, I do not recall that particular question.

Mr. BARKELL. All right, then; answer it once more, and then let us dispense with the repetition as much as possible.

A. Well, now, let me see. Did you ask me as to whether or not it would benefit us—



By Mr. CLARDY:

745 Q. Yes; if the truck left at 10 o'clock in the morning, instead of at the late hour in the afternoon.

A. No.

Q. All right. Now, Witness, great stress has been laid by the applicant on the fact that this is going to involve some kind of saving to the railroad, so far as the through over-all time is concerned.

Mr. HARRY YOCKEY. Just a moment.

By Mr. CLARDY:

Q. (Continuing.) Would it make—

Mr. HARRY YOCKEY. Just a moment, please, counsel. Give me a chance to interpose my objection, please. I object to the statement of Mr. Clardy, if the Board please, on the ground that it is not a question at all; but merely a statement, and an argument. That is not a question at all; it is just merely a statement.

Mr. CLARDY. Surely it is a statement, but nevertheless, it is a part of the question. It is preliminary to the question itself, so that he will clearly understand what it is that I am trying to get at. Now, may I finish my question, your Honor?

Mr. BARKELL. Yes; I would like to know what the question is, myself.

Mr. CLARDY. Surely. I had only started it, when counsel interrupted.

Mr. BARKELL. Finish the question.

Mr. CLARDY. How far did I get, please, Mr. Reporter?

(Question read.)

746 By Mr. CLARDY:

Q. (Continuing.) Now my point, Witness, is this: Assuming that the railroad is going to use trucks from Petoskey to Cadillac, or some other point, where it will then transfer shipments to the rail, would it make any difference to you whether it was Parker Motor Freight that rendered the truck part of the operation, or the applicant herein, The Willett Company?

A. No, sir; not any at all.

Q. So far as you know, is there any factor that would enable The Willett Company to render you any better or faster service if this application is granted, than you could presently secure from Parker Motor Freight?

Mr. HARRY YOCKEY. Just a moment.

A. I don't believe so.

Mr. BARKELL. Just a moment, Mr. Witness.

Mr. HARRY YOCKEY. Counsel is getting into a comparison, now, between The Willett Company and the Parker Motor Freight

Company, and this witness is certainly not qualified to make any comparison.

Mr. BARKELL. Oh, he may answer if he knows.

Mr. CLARDY. Surely.

Mr. HARRY YOCKEY. May I ask a preliminary question, then, if the Board please, just at this point.

Mr. DES ROCHES. Oh, your Honors, I object to counsel cross-examining the witness at this time. If he has a question to  
747 ask, let him reserve it until cross-examination at the proper time.

Mr. BARKELL. The witness may answer the question if he can.

Mr. EGGERS. I believe he did start to answer it.

Mr. CLARDY. Will you read the question, please.

(Question read.)

Mr. CLARDY. I might just add, having in mind, when you answer that question, the fact that their schedule calls for a 10 o'clock a. m. departure time.

A. Well, the only way that I could answer that question would be to say that The Willett Company would have to have trucks that could and would run faster than anybody else's trucks. But one truck can't run any faster than another, so what difference would it make who hauled it? That is about the only way that I can answer that question.

Mr. CLARDY. That is all.

Mr. BARKELL. Are there any further questions of this witness?

Mr. HARRY YOCKEY. Nothing further.

Mr. BARKELL. If not, the witness may be excused.

(Witness excused.)

Mr. CLARDY. Shall I proceed, your Honor?

Mr. BARKELL. No; we will take a recess at this time until 1:30 this afternoon.

(At 12 o'clock noon, recess until 1:30 p. m.)

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## AFTERNOON SESSION

The hearing was resumed pursuant to recess, 1:30 p. m.

Mr. BARKELL. Come to order, please, gentlemen. Mr. Des Roches, I believe you have something to present.

Mr. DES ROCHES. Yes.

Mr. BARKELL. You may proceed.

Mr. DES ROCHES. Mr. Buck.

Mr. CHARLES P. BUCK was sworn and testified as follows:

Direct examination by Mr. DES ROCHES:

Q. Mr. Buck, will you give your full name to the Reporter please.

A. Charles P. Buck.

Q. Where do you live?

A. Traverse City, Michigan.

Q. What is your business?

A. Industrial engineer.

Q. How long have you been an industrial engineer?

A. About 41 years.

By Mr. BARKELL:

Q. Your residence again, Mr. Buck?

A. Traverse City, Michigan.

Mr. BARKELL. Proceed.

By Mr. DES ROCHES:

Q. Mr. Buck, how long have you lived in Traverse City, or in close proximity thereto?

749 A. During the last period, for five years.

Q. And prior to that time, for how long a period of time did you live in Traverse City?

A. Prior to 1912, for 33 years.

Q. How long have you been an industrial engineer?

A. Approximately 41 years.

Q. As an industrial engineer, have you been employed by any industrial company or companies in or around Traverse City, or the chamber of commerce of Traverse City?

A. Yes.

Q. At various times?

A. Yes, sir.

Q. And for various purposes?

A. Yes.

Q. Were you employed at one time, Mr. Buck, by the chamber of commerce of the city of Traverse City to make a survey concerning transportation service?

A. I was.

Q. In the city of Traverse City, I mean.

A. Yes, sir; and surrounding territory.

Q. Well, now, Mr. Buck, when you refer to surrounding territory, just what do you mean; or what do you include in such surrounding territory?

A. The 13 counties from Manistee north to the straits, which are normally tributary to Traverse City retail and wholesale  
750 businesses.

Q. Can you tell the Joint Board and the Commission the population of the city of Traverse City, Michigan, at the present time?

A. At the last census, 14,455.

Q. Can you give us the population of the adjoining counties also, which you included in the territory that your survey covered?

A. According to the census of 1940, which is the last authentic figure that I have, it was 143,000, approximately.

Q. By the way, that covers approximately how much territory in square miles; that is, how many square miles?

A. 6,612.

Q. 6,612 square miles?

A. Yes, sir.

Q. Now, are you familiar with the common motor carriers, private carriers, and limited common carriers, that are authorized to serve the city of Traverse City, Michigan, and the surrounding territory?

A. In general; yes.

Q. Approximately how many common motor carriers would you say are authorized to serve that city?

A. Four.

Q. Now, did I correctly understand you to say that you made a survey concerning the transportation facilities of that city?

A. Yes.

Q. Traverse City.

751 A. Yes.

Q. And that was some time ago?

A. Yes, sir.

Q. Approximately how long ago?

A. Well, the last survey was made complete two years ago.

Q. Is that what we might call a personal survey on your part?

A. Well, it was a personal survey to the extent that I made my own investigation, and checked the collected data.

Q. Were you requested by anybody, or by any agency, to make that survey, Mr. Buck?

A. Yes.

Q. By whom?

A. By the chamber of commerce of Traverse City, Michigan.

Q. I wish you would tell the Joint Board and the Commission what findings, if any, you arrived at as a result of that survey.

Mr. HARRY YOCKEY. Now, just a moment. I want to object, if the Board please, to any survey which this witness might have made. Nothing of that sort is involved in this proceeding, and it cannot possibly be. The only question involved here is the question of public convenience and necessity. That is my first ground of objection. In the second place, the question calls for an opinion on the part of the witness regarding conditions, and an opinion of that sort would have utterly no bearing on the issue in this  
752 type of case. It is utterly irrelevant and immaterial. If this man were a shipper, or if he himself were interested

in some way, so that he would have direct knowledge, that might be one thing, but here, by the testimony of the witness himself, is a private investigation which he made, where we are not afforded the slightest opportunity to cross-examine anyone with whom he may have talked; we have no opportunity to meet them face to face. The question involved here is not a question that calls for a survey, or has anything to do with a survey. Furthermore, the period involved is too remote. This happened several years ago, and was just made complete, as the witness said, two years ago. We are in a time when conditions are changing very rapidly. They are changing right now. We just do not believe that the evidence now sought to be introduced is competent, relevant, or material.

Mr. DES ROCHEs. May I be heard?

Mr. BARKELL. Go ahead.

Mr. DES ROCHEs. Counsel speaks about this witness having talked to somebody. I am not asking him to testify to anything that is hearsay. I am simply asking him to give testimony upon this question, based upon a personal survey that he himself made. If there is any cross-examining to be done, this witness is the man to be cross-examined; and he can be cross-examined at length as to the extent of the survey; and the detail of the survey; the people he contacted; and what the results were, what his findings

753 were. Now, counsel states that the only question we are concerned with here is the question of public convenience and necessity. That is the very first time I have heard counsel make an admission of that sort during the entire progress of this proceeding. He has contended from the very start, and claimed from the very start, if I have understood him correctly, that that was a point that did not have to be established in this particular case. Now, he states that it must be established. I want to show through this witness that the territory which The Pennsylvania Railroad is proposing to serve here, or through this applicant, is being adequately served at the present time; and if this man on the basis of the survey that he himself conducted, can testify as to the adequacy or inadequacy of the transportation service in the territory, certainly that testimony is competent.

Mr. HARRY YOCKEY. If the Board please, may I state just a word further, before you rule?

Mr. BARKELL. Yes.

Mr. HARRY YOCKELL. Counsel is wholly mistaken in his last statement, because this record will show definitely that we have contended from the very start that the question of public convenience and necessity was the question that was involved here. They have one idea, however, as to what public convenience and



necessity means, in this particular type of case, and we have another; but the opinion that we have regarding convenience and necessity is based on the decisions of the Interstate Commerce Commission.

754 **Mr. BARKELL.** Well, now, we do not want to get into an argument along that line here, Mr. Yockey. We went all through that once before at Indianapolis.

**Mr. HARRY YOCKEY.** All right. I want to repeat my other proposition, however, that we have not been afforded any opportunity to cross-examine anybody to whom this witness may have talked in connection with his survey, or in arriving at his findings. That is fundamental, I submit, in a matter of this sort. In other words, we have no opportunity to know.

**Mr. DES ROCHES.** This man is not coming in here and testifying as a shipper witness, your Honors. He is in a different category. He is coming in here and testifying as an expert; and if he has an opinion, he is certainly entitled to give it, based on the survey that he himself personally has made.

**Mr. HARRY YOCKEY.** As far as expert testimony is concerned, there are certain well-defined rules under which, and only under which, expert testimony may be received. Now, if they have the direct evidence, let them put it into this record, and instead of asking for the conclusion of this witness, let the Commission draw its own conclusion. That is not any matter that calls for expert testimony. This man goes out into the field, and claims that he secured certain information on which, as I stated, we are afforded no opportunity to cross-examine, and for that reason alone,  
755 if for no other reason, we contend that this sort of testimony is highly out of place in this proceeding.

**Mr. CLARDY.** Your Honors, since I did not propound the question, perhaps—

**Mr. BARKELL.** Just a moment, please, Mr. Clardy. The objection is overruled, and the witness may answer the question.

**Mr. DES ROCHES.** Will you read the question, please, Mr. Reporter.

(Question read.)

**A.** The survey in regard to transportation?

**By Mr. DES ROCHES:**

**Q.** Yes.

**A.** My findings, based on the studies which I had made, were that the existing transportation facilities, common carrier, contract carrier, and others, were more than adequate to take care of the demands of the territory.

**Q.** Now, then, have you subsequently made another survey, an industrial survey, in the same territory?

A. Yes; I have made both.

MR. HARRY YOCKEY. Just a moment. We want to object to that also, if the Board please, for the same reasons as stated in the other objection.

MR. BARKELL. Overruled.

By MR. DES ROCHES:

Q. For whom was that survey made?

A. That survey was made partly for the chamber of commerce, and partly to complete my own files.

756 Q. The chamber of commerce of Traverse City?

A. Yes.

Q. Will you please give the Joint Board and the Commission some information as to just what type of survey it was that you made, and what it covered?

A. Well, it had to do principally with economic factors, which might influence the future economic progress of that area.

Q. All right. Now, what were some of the economic factors that you made an investigation into in connection with that survey?

A. Primarily population trends.

Q. What did you find, if anything, as to population trends?

A. I found that the population has markedly decreased since last year.

Q. Do you have any figures available, as to what that decrease has amounted to?

A. Yes.

Q. Will you state?

A. The figures taken from the United States Employment Service, and from the Michigan publication Labor and Industry, together with the results of my own investigation among employers and others, and also the fact of the induction of men into the armed services, indicate for the five-county area around Traverse City, representing approximately 55,000 of population, according to the 1940 survey, a drop of approximately 9,000 in population, out of a population, as I say, of 55,000.

757 Q. And that drop of 9,000 in population took place over a period of what time?

A. In a period of a little over one year. Part of the drop was due to persons leaving the area for industry, employables between the ages of 26 and 35.

Q. Then, that drop has occurred since you made your survey into the transportation facilities of the community, has it not?

A. Yes.

Q. What did your survey disclose as to the number of industries located in the territory, particularly in the city of Traverse City itself?

A. The industries, excluding the canning plants—I will qualify it that way—are 12 in number, as I recall it at the moment.

Q. 12 industries?

A. Yes—excluding the canning plants.

Q. Is that in Traverse City?

A. Yes.

Q. Approximately how many men would you say are employed in those 12 industries in Traverse City?

A. I am not able to give you an accurate answer to that question just at this time, because of the rather violent fluctuations that have occurred during the last six months.

Q. Do you know of any industry in Traverse City that employs more than, say 250 men?

A. No, sir; I do not—excluding the canning plants.

758 Q. Excluding the canning plants.

A. Right.

Q. Has there been a decrease in industry in the city during the course of the past two years—Traverse City?

A. Yes.

Q. To what extent?

A. Probably 115 employees.

Q. A decrease of 115 employees?

A. Yes.

Q. What is the nature of the industry in the city of Traverse City?

A. Mixed.

Q. Mixed?

A. Yes.

Q. Well, can you give the Joint Board and the Commission some idea as to the types of commodities that are manufactured there?

A. Why, yes, sir. There are trousers, automobile parts, caskets, hydrants, valves, cigar boxes, cold pressed plastics, lawnmowers, sprayers, and hand agricultural implements.

Q. Now, what effect, if any, has the war had on the industries that are located in Traverse City?

A. It has had a bad effect.

Q. In what way?

A. To this extent, that many of them have, under the restrictions, been obliged to cease operation.

759 Q. Have any war plants or defense plants gone into the city to supplement the industry that was operating there prior to the war?

A. There are two new plants in potential; that is, that are not yet in operation. There is one existing plant, the True-Fit Trousers Company, which is running entirely on governmental

business. There is one plant that is manufacturing sprayers, and hand agricultural implements, which is running on a partial basis on government business.

Q. Now, Mr. Buck, based upon the surveys which you have made covering both the transportation facilities, and the economic and industrial situation there in the city of Traverse City, Michigan, I will ask you if you have an opinion as to whether or not the transportation facilities into and out of the city of Traverse City at the present time, are adequate?

Mr. HARRY YOCKEY. Just a moment. If the Board please, may I renew the objection to this question that I made to the preceding questions, a moment ago, without burdening the record by repeating it specifically?

Mr. BARKELL. Yes.

Mr. HARRY YOCKEY. Just let the record show that that objection; and all of the grounds thereof, are renewed to this question.

Mr. DES ROCHES. Just answer this pending question yes or no, Mr. Buck. I am merely asking you whether or not you have an opinion.

Mr. HARRY YOCKEY. Just a moment. Let us have a ruling.

Mr. BARKELL. The record shows that you are renewing your objection to this last question.

Mr. HARRY YOCKEY. Yes; I want the record to show the objection, without taking the time and burdening the record to repeat it. Just let the record show the same objection I made a moment ago.

Mr. BARKELL. The record will show your objection.

Mr. HARRY YOCKEY. And may we have a ruling?

Mr. BARKELL. Overruled.

By Mr. DES ROCHES:

Q. You may answer the question.

A. Yes.

Q. What is that opinion?

A. My opinion is that the transportation facilities at the present time existing there are more than adequate to meet the demands of the territory that they serve.

Mr. DES ROCHES. That is all.

Mr. BARKELL. Cross-examine.

Mr. HARRY YOCKEY. If the Board please, I move that all of the testimony of the witness be stricken from the record, for the reasons heretofore given in my objection.

Mr. BARKELL. Motion denied.

Mr. HARRY YOCKEY. No questions.

Mr. BARKELL. No questions?

Mr. HARRY YOCKEY. Nothing.

Mr. BARKELL. If there are no further questions, the witness is excused.

(Witness excused.)

Mr. BARKELL. Mr. King, do you have a witness whom you would like to present at this time?

Mr. KING. Not just at this moment; no, your Honor.

Mr. BARKELL. Let us get along, gentlemen. Is there another witness ready to go on?

Mr. CLARDY. I have a witness.

Mr. BARKELL. All right.

Mr. CLARDY. Mr. Garthe.

CHARLES E. GARTHE was sworn and testified as follows:

Direct examination by Mr. CLARDY:

Q. Your name, Witness.

A. Charles E. Garthe.

Q. Where do you live?

A. Traverse City.

A. Michigan?

A. Yes.

Q. You have been present during the hearing here today, and have heard the testimony of the other preceding witnesses, have you not?

A. Yes.

762 Q. What is the nature of your business or occupation?

A. I take care of the shipping for the Grand Traverse Metal Casket Company.

Q. In other words, you are the gentleman who is employed by that company to handle and direct the shipping of that company; is that it?

A. Yes.

Q. Does your company manufacture, sell, and ship, as its name indicates, caskets?

A. Yes, sir; we make metal caskets and undertakers' supplies.

Q. Has the war had any effect upon the manufacture and production of those commodities?

A. Yes, sir; it has.

Q. In what way?

A. Well, at the present time it looks as though we will have to discontinue the manufacture of metal caskets within the next two or three weeks, say.

Q. Are you at the present time, then, substituting some other product for the manufacture of that commodity?

A. Yes, sir.

Q. What is that?



A. We are switching to wood, and we hope that we may get into something else also; but I am not just sure about that at the present time.

763 Q. Now, with regard to your out-bound movements first: does your company at the present time ship its manufactured products in interstate commerce?

A. Yes, sir. Most of our products go to points outside of the state. A good proportion of them go into the east.

Q. When you refer to the east, what states in particular do you have reference to?

A. Oh, Rhode Island, New York—Brooklyn; New Jersey; and down into Pennsylvania. We do not ship west of the Mississippi River, I might say. It is mostly along the Atlantic coast, the Atlantic seaboard.

Q. Does your company have any materials moving inbound, in interstate commerce?

A. Yes.

Q. Where do those materials come from?

A. From out of the state do you mean?

Q. Yes.

A. Yes, sir; most of them come from outside of the state, I would say. The silks come from New York; the lacquers come from different places. They come from North Chicago, Illinois; Indianapolis, Indiana; and different places, even as far as New Jersey. That is where the Egyptian Lacquer Company is located. The steels have all come from Pennsylvania in the past—the American Rolling Mills. That is, at one time we used copper-bearing steel, which came from Vanderbilt, Pennsylvania; but recently it has come from the American Rolling Mills at

764 Youngstown, Ohio.

Q. Now, as far as the in-bound movement of steel is concerned, I take it from your testimony that that will shortly cease; is that correct?

A. It has ceased.

Q. It has already ceased?

A. Yes.

Q. And you are at the present time, then, merely existing—or getting along with what you have on hand?

A. Yes.

Q. I see. As to the other commodities, however, will they still continue to move in-bound?

A. Well, as far as the wood is concerned, at the present time we are not allowed to use—that is, we cannot get wood for our boxes, so we will have to substitute veneer for our shipping cases. That is, there are certain woods that are allowed, but only certain

woods, and we have a stock on hand; but we don't know far enough ahead just what is going to happen, because things are changing so rapidly, right along.

Q. All right. Now, with respect to the shipping requirements of your company: up to the present time have you used both rail and truck service in your in-bound as well as your out-bound movements; and if so, will you describe how?

A. We use the rail service to a considerable extent. Most of our stuff moves by rail, both in-bound and out-bound. But  
765 we have used all available facilities.

Q. In connection with your in-bound movement, does that come in principally in carload quantities?

A. Why, the steel has been in carload quantities almost entirely. Once in a while we get a small lot from Chicago, or from Detroit, that is less than a carload; but normally, however, it has been in carload quantities. As a matter of fact, those items are ordered quite a long way in advance, because they have to be rolled specially in the mills.

Q. Now, you say the movement of steel has ceased.

A. Yes.

Q. But how about the other commodities? So far as the future is concerned, will you be getting them in-bound in carload quantities, or less-than-carload quantities?

A. Why, we don't know exactly; we are not sure right at the present time, but we hope to be able to get them in in carload quantities. At the present time we are getting them less-than-carload, however. We are feeling out, so to speak, different sources of supply.

Q. Have you used the services of Parker Motor Freight?

A. Yes.

Q. In what sort of operations have you used the Parker Motor Freight service?

A. Well, they get almost everything in the way of the different products that come in, such as lacquers, and some silks, and  
766 even the veneer cases coming from northern Michigan. They get almost everything.

Q. Has that line handled any products for you from points such as you mentioned, like Chicago and Indianapolis?

A. Yes, sir. The lacquers that we get in from the Advance Paint Company come in mostly by Parker Motor Freight.

Q. Has the service that Parker has rendered you been satisfactory to your company?

A. Yes.

Q. Now, Witness, I take it you are familiar with the general nature of the service which is proposed in the application under consideration here, are you not?

A. I think so; yes.

Q. At the present time would you tell us, if you can, something about the over-all time that is consumed, or involved in the rail movements, in the case, for example, of the shipments that come into you in-bound some from of the eastern points that you have named?

A. Well, most of our stuff is handled by rail, because it is long-haul. However, in the state, as far as shipments in the state are concerned, we ship a lot by truck; mostly by truck, I would say.

Mr. BARKELL. Never mind any intrastate operations, Mr. Witness. Let us confine ourselves here to interstate shipments.

By Mr. CLARBY:

Q. I had in mind, Witness, an in-bound shipment  
767 coming, say, from some point in the east. My question is, do you definitely have in mind the amount of time that the rails consume in handling such a shipment, say from Brooklyn, New York, or some place else in New York, or New Jersey, to your plant at Traverse City?

A. Why, I remember one particular case where my brother ordered some silk, I believe it was, from Chicago—or at least he ordered something from Chicago; I don't remember now just exactly what it was, but he ordered it, and there were two orders, and one was handled by express, and the other was handled by truck. We wanted the stuff just as quickly as we could get it; so we figured that we would send part of it one way and part of it the other, so as to be sure to get at least a part of it as soon as possible; and I remember that the truck got in just a little ahead of the express. That was from Chicago.

Q. Do you have in mind as to whether or not at the present time you are receiving an over-night truck service from Chicago?

A. As far as I know, we do; yes.

Q. But you do not have in mind, do you—or do you—the precise amount of time that would be involved in moving a shipment, say, from New York by rail to your plant?

A. Why, I should say, just offhand, four or five days, but I wouldn't be able to tell you definitely about that. Some of the silk comes by express.

Q. You say that some of your shipments come in by express?

768 A. Yes.

Q. Of silk?

A. Yes, sir; some of it, and then some of it also comes in by freight, where there are larger lots, you understand.

Q. Now, the proposal that is here before us, as far as the rail side of the case is concerned, has to do with a claim that if this

application is granted, it will mean that the Pennsylvania Railroad will be able to speed up its in-bound or its out-bound service, or both, somewhere from zero up to 24 or 48 hours. Now, at the present time, is the service which you are receiving sufficiently fast and satisfactory to meet all of the needs of your company?

A. Yes; I think it is.

Mr. CLARDY. That is all.

Mr. BARKELL. Cross-examine.

Cross-examination by Mr. HARRY YOCKEY:

Q. Mr. Witness, in the case of any less-than-carload shipments that you receive by rail, over the Pennsylvania Railroad, where do they come from?

A. Most of our stuff is by the Pere Marquette.

Q. I am talking about any less-than-carload shipments that you do receive over the Pennsylvania Railroad.

Mr. CLARDY. If there are any that you know about, Witness.

Mr. HARRY YOCKEY. He has already testified that there are.

A. From Kendallville, Indiana.

769

By Mr. HARRY YOCKEY:

Q. You do get some shipments from there?

A. Yes.

Q. Less-than-carload shipments by the Pennsylvania Railroad?

A. Yes.

Q. All right. Now, how long does it take, if you know, for those shipments to reach you by the Pennsylvania Railroad?

A. I wouldn't be able to say just definitely, but—you are talking about Kendallville, now, are you?

Q. Yes.

A. A number of days; the shipments that we get in from Kendallville take a number of days.

Q. A number of days?

A. Yes.

Q. Well, now, then, do you use truck service from Fort Wayne, in the case of any shipments that come to you from Fort Wayne?

A. We have one customer located near Fort Wayne, that is, at Ossian, Indiana, and he has requested a certain truck line.

Q. Well, now, do you get your shipments quicker by truck from that point, than you do from Kendallville, Indiana, by rail—that is, your less-than-carload shipments?

A. Well, maybe I didn't make myself clear, or perhaps I didn't correctly understand you. It is shipped that way, to that particular point. In other words, we do not get anything in from there. That is out-bound.

Q. Well, then, let me put it this way, Mr. Witness: referring to the shipments which you receive at the present—

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time by rail, that is, less-than-carload shipments interstate, does it take longer for those rail shipments to reach you than it would take by truck to get them from the same point?

A. I would say that it does; yes.

Q. It takes longer by rail—

A. Yes.

Q. Than by truck?

A. Yes.

Q. Well, then, would you not rather have a comparable service by rail, with the service which you receive by truck?

A. (No answer.)

Q. Would you not rather have a shorter time by rail, as compared with the ordinary truck service?

A. Well, we don't.

Q. My question is: would you or would you not?

A. (No answer.)

Q. I am just asking you to answer that question.

Mr. BARKELL. You can answer that question yes or no, Mr. Witness.

A. How is that again?

Mr. HARRY YOCKEY. Read the question, please.

(Question read.)

A. Why, I don't know as I would rather ship by rail than by truck; no, sir. As far as the service is concerned—

771 Mr. BARKELL. That was not the question.

Mr. HARRY YOCKEY. No.

The WITNESS. What was the question?

Mr. BARKELL. Read it again.

By Mr. HARRY YOCKEY:

Q. The question is: would you not like to have the amount of time consumed in a shipment reaching you by rail, the same as the time involved in such a shipment reaching you by truck?

A. Oh; yes; sure.

Q. Now, you say that it takes longer for a shipment to reach you by rail than it does by truck.

A. Yes.

Q. If the railroad can speed its service up, we will say, by from 24 to 48 hours, that would be of value and benefit to you in your business, would it not?

A. Sure.

Q. And I take it, then, you would like to have that type of service—

A. Oh, yes.

Q. If it could be instituted, would you not?

A. That would be all right; yes, sir.



Mr. HARRY YOCKEY. That is all.

Redirect examination by Mr. CLARDY:

772 Q. But if that could be accomplished, Witness, by using the present motor carrier service that you are using at the present time, would that also not be of some benefit to you?

A. That would be all the same to us.

Q. All the same to you.

A. That would be perfectly all right with us; yes, sir.

Mr. CLARDY. Thank you.

Mr. BARKELL. Are there any further questions of this witness?

Mr. HARRY YOCKEY. That is all.

Mr. BARKELL. If there are no further questions, the witness is excused.

(Witness excused.)

Mr. BARKELL. Are you ready to put your witness on now, Mr. King?

Mr. KING. Yes; your Honor.

Mr. BARKELL. You may call him.

Mr. KING. Mr. Harmon.

Mr. BARKELL. I might say, gentlemen, we are going to let Mr. King put a witness on at this time, who is anxious to get away.

Mr. CLARDY. That is quite all right.

GERALD E. HARMON was sworn and testified as follows:

Direct examination by Mr. KING:

773 Q. Mr. Harmon, will you give your full name to the Reporter, please?

A. Gerald E. Harmon.

Q. Where do you live?

A. Grand Rapids, Michigan.

Q. With what company are you connected?

A. Norwalk Truck Line Company.

Q. In what capacity?

A. District manager, western Michigan.

Q. How long have you been connected with the Norwalk Truck Line Company, Mr. Harmon?

A. Three years.

Q. How long have you been district manager?

A. For the past year and a half.

Q. What territory is under your jurisdiction?

A. Lansing, Grand Rapids, Battle Creek, and Kalamazoo.

Q. As district manager of your company for that district, have you had occasion to, and have you, familiarized yourself with the general operations of your company?

A. Yes.

Q. Generally speaking, what territory does the Norwalk Truck Line Company serve in interstate commerce?

A. Why, generally speaking, it serves the states of Indiana, Ohio, and Michigan, and Chicago, Illinois, and suburbs.

Mr. KING. Mr. Reporter, protestant's exhibit No. 18 for identification, please.

774 (Protestant's exhibit No. 18, Witness Harmon, marked for identification.)

By Mr. KING:

Q. Now, Mr. Harmon, does the Norwalk Truck Line Company operate under authority issued by the Interstate Commerce Commission?

A. Yes.

Q. I show you what has been marked by the Reporter here for purposes of identification as protestant's exhibit No. 18, and I will ask you to state briefly for the record what that is, please. I am referring now to the—

A. Map?

Q. —map portion of the exhibit.

A. Why, this exhibit No. 18 for identification shows our permitted routes by the Michigan Public Service Commission and the Interstate Commerce Commission, that we operate over daily, both in Michigan and outside.

Q. In other words that shows not only your routes in the state of Michigan, but also your routes in the states of Indiana and Ohio?

A. Yes.

Q. Is it a complete map?

A. Yes, sir.

Q. Now, does your company operate between Fort Wayne, Indiana, and Michigan points?

A. Yes.

775 Q. And does this exhibit, including the list of points served, indicate what points are served between Fort Wayne, Indiana, and Michigan points?

A. Yes.

Q. How far north does your company operate?

A. Into Michigan?

Q. Yes.

A. Well, we operate north in Michigan as far as—well, perhaps, Midland, Michigan, would be the furthest point on the east.

Q. And to Grand Rapids on the west?

A. Yes.

Q. Are you familiar with the route which is here proposed by the applicant between Fort Wayne, Indiana, and Mackinaw City, Michigan?

A. Yes.

Q. Does that route parallel a certain portion of the routes operated over by Norwalk Truck Line Company, between Fort Wayne, Indiana, and Grand Rapids, Michigan.

A. Yes.

Q. To what extent?

A. It parallels approximately, I would say—or at least three-quarters of our route between Fort Wayne and Grand Rapids.

Mr. KING. At this time, if the Joint Board please, I offer protestants' exhibit No. 18 in evidence.

Mr. BARKELL. Is there any objection?

776 Mr. HARRY YOCKEY. No objection.

Mr. BARKELL. There being no objection, protestants' exhibit No. 18 is received in evidence and made a part of this record.

(Protestants' exhibit No. 18, Witness Harmon, received in evidence.)

By Mr. KING:

Q. Now, Mr. Harmon, what service does Norwalk Truck Line Company render in interstate commerce between Fort Wayne, Indiana, and points along its route between Fort Wayne and Grand Rapids, Michigan?

A. Over-night.

Q. Approximately how many units of equipment does Norwalk Truck Line Company operate over all of its routes?

A. Approximately 600.

Q. And would that consist approximately of one-half tractors and one-half trailers?

A. Yes.

Q. In addition to that equipment, your company does operate a few trucks, ordinary trucks, does it not?

A. Yes.

Q. On its peddle runs?

A. On short, peddle runs; yes, sir.

Q. Does your company maintain terminals at points in Michigan along the proposed route?

A. Yes.

Q. At what points?

777 A. Kalamazoo and Grand Rapids.

Q. Now, I note by protestants' exhibit No. 18, Mr. Harmon, that you do not operate over the highway direct between Sturgis and Kalamazoo, Michigan.

A. No.

Q. However, do you serve Kalamazoo and Grand Rapids direct from Fort Wayne, Indiana?

A. Yes.

Q. I believe you stated that is daily service.

A. Yes.

Q. Over-night.

A. Yes.

Q. Now, with respect to your return service; that is, service in the return direction: what service do you render between Grand Rapids and Fort Wayne, Indiana?

A. The same.

Q. The same?

A. Yes, sir. Every point on the routes of the Norwalk Truck Line Company has direct over-night service.

Q. Does this map indicate all of the points between Fort Wayne, Indiana, and Grand Rapids, Michigan, that your company serves?

A. Yes.

Q. You are familiar with the fact, are you not, Mr. Harmon, that The Pennsylvania Railroad operates a line of railroad between Fort Wayne, Indiana, and Mackinaw City, Michigan, through Kalamazoo and Grand Rapids?

A. Yes.

Q. In the event that shipments were tendered to your company at Fort Wayne by The Pennsylvania Railroad for transshipment by truck to any point on this proposed line, or any point—any other point in the state of Michigan, that is served by the Norwalk Truck Line Company, would your company be in a position to, and would it accept such shipments?

A. Yes.

A. Now, are the trucks of your company at the present time being operated to the limit of their capacity at all times?

A. The majority of the time, I would say.

Q. Is your company in a position to secure additional equipment, if the demands of the traffic should require it?

A. Yes, sir; we are. We have some equipment in our yard at the present time that is being licensed, and we have four more pieces on order.

Q. Does your company have interchange arrangements with other carriers that operate beyond its line?

A. Yes.

Q. That is true at the city of Grand Rapids, is it not?

A. Yes, sir; it is; and also every point that we operate to in Michigan of any size.

Q. In the case of shipments received by you that are destined to points north of Grand Rapids, say, between Grand Rapids

779 and Mackinaw City, Michigan, do you have trucking companies there with which you transfer and interchange freight?

A. Yes, sir.

Q. Do you do that every day?

A. Yes.

Q. You accept and transport both truckload shipments and less than truckload shipments, do you not?

A. Yes.

Q. Do you exchange trailers, loaded trailers, with other motor carriers?

A. Under the new order of April 7th, of the Michigan Public Service Commission, we are allowed to operate our trailers on a trip-lease basis, which permits us to go straight through to any point in the state of Michigan.

Q. So that if a truckload shipment is interchanged, you can interchange the trailer; is that correct?

A. We may either interchange the trailer, or we may go straight through, as I say, on a trip-lease basis.

Mr. KING. That is all.

Mr. BARKELL. Cross examine.

Cross-examination by Mr. HARRY YOCKEY:

Q. Mr. Harmon, referring again to protestants' exhibit No. 18, which you have introduced here: is that a fair map of all of your operations?

A. Yes.

780 Q. It is a complete map, is it?

A. It is supposed to be.

Q. And it shows all of the cities and towns that you serve?

A. Yes.

Mr. HARRY YOCKEY. I think that is all.

Mr. BARKELL. Are there any further questions of the witness?

Mr. DES ROCHES. Just one question.

By Mr. DES ROCHES:

Q. Mr. Witness, are you familiar with the fact that the Pere Marquette Railroad Company has entered into agreements with carriers here in the state of Michigan to handle freight for it?

Mr. LINDSTRAND. Just a moment. I object to that question, if the Joint Board please.

Mr. DES ROCHES. I submit, if your Honors please, that that is a very material question.

Mr. BARKELL. What is the objection?

Mr. LINDSTRAND. The objection is that that is not involved here in any way whatsoever. We are only trying one issue here.



**Mr. DES ROCQUES.** We are confronted with an order of the ODT, with which we are all familiar; and if another railroad can arrange for that type of service, there is no reason in the world why this particular railroad cannot.

**Mr. HARRY YOCKEY.** We do not consider, if the Board please, that any ODT order has anything to do with this particular case.

781 **Mr. BARKELL.** I agree with you there.

**Mr. CLARDY.** Well, your Honor, may I be heard on that? I believe that has a very important bearing in this case.

**Mr. BARKELL.** Yes.

**Mr. CLARDY.** We want to show by this line of questioning that, contrary to the claim of The Pennsylvania Railroad, and The Willett Company, this very kind of service can be, and as a matter of fact is being, rendered to railroads operating in the state of Michigan, involving some of the very same points that are involved in this application; and we want to develop that to show, contrary to what they are claiming, that as a matter of fact, there is nothing difficult, or impossible, or special about it; so that it cannot be handled by regular common carriers that are already in the field. Now, the basis of their entire case is this: it is bottomed almost entirely, as I understand it, on the proposition that this has to be done only by their own hired men; that it cannot be done satisfactorily otherwise. This evidence is introduced to show that that is not so, and that it can be done otherwise; because it is being done.

**Mr. HARRY YOCKEY.** May I say just a word further, if your Honors please.

**Mr. BARKELL.** Go ahead.

**Mr. HARRY YOCKEY.** You will recall that earlier in the case, when **Mr. Christie** was on the witness stand, we asked him  
782 what the reasons were why we wanted The Willett Company to render this service for us, and indicated that there were 18 of them, as to why we wanted a subsidiary to perform this particular type of service; and **Mr. Clardy** objected to that, and you sustained the objection.

**Mr. CLARDY.** And you got all of them in, anyway.

**Mr. HARRY YOCKEY.** I got them in only by way of an offer of proof, which is for the Commission to decide ultimately. I thought you were wrong at that time, and I believe that the Commission will so decide. However, as far as any ODT order is concerned, that has nothing to do with this case. We have a particular type of service involved here, and this man has said that his company is willing to perform it. That is what he has already

said, and that is all that his testimony amounts to. This is just getting very far afield here. I believe that this is clear off of any issue here.

Mr. CLARDY. May I add—

Mr. BARKELL. Just a moment, please, Mr. Clardy. Counsel, is this question based on, or does it involve, an order or orders of the ODT?

Mr. DES ROCHEs. No.

Mr. BARKELL. It does not?

Mr. DES ROCHEs. No, your Honor. It is based upon an actual fact, that is already in existence, namely, that the Pere Marquette Railroad Company has entered into such contracts or  
783 agreements here in the state of Michigan, to take over and render this exact type of service. I do not know what the answer of the witness is going to be.

Mr. BARKELL. The objection is overruled. The witness may answer the question.

The WITNESS. State it again.

Mr. DES ROCHEs. Will you read it, please.

(Question read.)

A. Yes.

Mr. DES ROCHEs. That is all.

Mr. CLARDY. Your Honor, I had intended to ask a question or two before the direct was concluded. May I ask them now?

Mr. BARKELL. Yes.

By Mr. CLARDY:

Q. Witness, I am not exactly sure, but I do not believe this particular question has been asked of you directly. If it has been, will you please indicate. The schedule proposed by the applicant here, as set forth on applicant's exhibit No. 4, and as subsequently modified by the direct testimony of one of the witnesses, or, I believe, of two of the witnesses for the applicant, sets up certain times of arrival and departure. Is your company in a position to, and would it, furnish service at the scheduled times proposed by the railroad company here, if the railroad company would show a willingness to enter into an arrangement with you to handle that business?

A. Yes.

784 Q. Is there anything about the operations of your company that would in any way preclude you from furnishing a regular, scheduled service for either The Pennsylvania Railroad Company, or any other railroad, over this route, or between the points which you serve, if they were to ask you to render such service?

A. No.

Q. Now, I believe you testified that you are already rendering a daily service over these routes; is that correct?

A. Yes.

Q. Well, in that connection, have you at any time ever handled any freight that was tendered to you for ultimate handling by a railroad on to destination?

A. No.

Q. You have not had any of that in the past?

A. None.

Q. Has the railroad company ever offered you anything that it has transported part way, and then wanted you to carry on to destination?

A. No.

Q. Has there ever been any effort on the part of this particular railroad to obtain any of your service over any of these routes to any of these points?

A. Not to my knowledge.

Q. Your company is not the only carrier operating between the points that you serve, is it?

785 A. No.

Q. You have some knowledge of the existence of competition in the field at the present time, have you?

A. Oh, yes.

Q. Do you presently recall the names of some of the carriers that are in competition with you, between the points which you serve, that are involved in this application?

A. Yes, sir.

Q. Will you name them.

A. O. I. M. Transit Corporation, Interstate Motor Freight System, Cloverleaf, Holland Motor Express—let me see—

Q. Did you ever hear of Associated?

A. Associated Truck Lines?

Q. Yes.

A. Oh, yes.

Q. Day's Transfer?

A. Yes, sir. I guess they operate from Sturgis—well, scratch that out. I know of them.

Q. You have heard of Keeshin also, have you not?

A. Yes.

Mr. BARKELL. What is this; an advertising campaign?

Mr. CLARDY. No.

Mr. BARKELL. Are there any further questions of the witness?

Mr. HARRY YOCKEY. I take it, Mr. Clardy, that these other truck lines, whose names have just been mentioned, will have

786 representatives here to testify; is that correct?

Mr. CLARDY. That is my understanding, yes.

Mr. HARRY YOCKEY. All right. With that understanding, then, if the Board please, I see no reason for cross examining this witness regarding his ideas of the service rendered by these other companies. I say that merely in the interests of time.

Mr. DES ROCHES. Well, now, just a moment. This man is not attempting to testify with respect to the service offered by these other companies. He was simply asked to name the competing truck lines that he encounters in serving his points, and that is all he has done.

Mr. HARRY YOCKEY. I still stand by what I said.

Mr. CLARDY. You do not retract anything.

Mr. HARRY YOCKEY. Not a bit.

Mr. BARKELL. Let us not consume any time unnecessarily here, gentlemen. Is that all with the witness?

Mr. HARRY YOCKEY. Just a moment, if your Honor please. May we confer here for just a moment. Counsel may have a question. No, that will be all.

Mr. BARKELL. Is that all, Mr. Des Roches?

Mr. DES ROCHES. Nothing further.

Mr. BARKELL. If there are no further questions, the witness is excused.

(Witness excused.)

787 Mr. BARKELL. Call your next.

Mr. DES ROCHES. Mr. Smiley.

E. W. SMILEY, Jr., was sworn and testified as follows:

Direct examination by Mr. DES ROCHES:

Q. Mr. Smiley, will you give your full name to the Reporter, please?

A. E. W. Smiley, Jr.

Q. Where do you live?

A. Sturgis, Michigan.

Q. Are you connected with some industrial company there at Sturgis?

A. Yes.

Q. What company?

A. Berridge Shear Company.

Q. In what capacity?

A. Traffic manager and purchasing agent.

Q. In what business is your company engaged?

A. We make hand shears, tinners' snips, and so forth.

Q. Is your company engaged in defense work?

A. Some.

Q. Your company, I take it, has both incoming and outgoing freight; is that correct?

A. Yes.

788 Q. How is your incoming freight at the present time being handled?

A. Truck and rail.

Q. And how is the outgoing freight being handled?

A. The same.

Q. To what points does your company make shipments outside of the state of Michigan?

A. We ship all over the United States.

Q. Can you give the Joint Board and the Commission some idea as to the volume of your shipments?

A. This is outbound you are talking about?

Q. Yes.

A. Oh—

Q. A truckload per day, or so many per week, or month.

A. Just speaking roughly offhand, I would say approximately one ton per day.

Q. One ton per day?

A. Yes.

Q. Now, what percentage of that moves by common motor carrier, and what percentage of it moves by rail?

A. Oh, I would say approximately 25 per cent, probably, goes by rail, and about 75 per cent moves by truck.

Q. What has your experience been up to the present time with the service that is rendered you by the common motor carriers in the movement of your outgoing freight?

A. It has been very good.

789 Q. And what has your experience been in connection with the handling of your incoming freight from the standpoint of the common motor carriers?

A. All right; fine.

Q. Do you have any complaint, in other words, to register in connection with the existing service?

A. None.

Q. Insofar as your own company is concerned, would you say that there is any need for any additional transportation service at Sturgis?

A. No.

Mr. DES ROCHES. That is all.

Mr. BARKELL. Cross-examine.

Cross-examination by Mr. HARRY YOCKEY:

Q. Do you use The Pennsylvania Railroad?

A. Yes.

Q. On your outbound shipments?

A. Yes.

Q. In less than carload quantities?



A. Yes.

Q. And do you use The Pennsylvania Railroad also in the movement of your inbound shipments in less than carload quantities?

A. Yes—and some carload.

Q. Some carload?

A. Yes.

790 Q. I am going to confine my questions to you, Mr. Smiley, to less-than-carload shipments.

A. All right.

Q. Just so that you will understand what I am getting at.

A. Yes. All right.

Q. Now, for instance, do you make any shipments via The Pennsylvania Railroad from your plant at Sturgis to New York?

A. New York?

Q. Yes; that is, to points in New York.

A. Not that I can think of.

Q. Well, let us take Indiana, then. Do you make any less-than-carload shipments by The Pennsylvania Railroad to points in Indiana?

A. No.

Q. All right. Well, then, to save time, will you name me some of the points where you do ship by rail?

A. Los Angeles.

Q. All right. Let us take Los Angeles, California, then. How long does it take you to make those shipments from Sturgis, Michigan, to Los Angeles, California?

A. It varies.

Q. Generally.

A. Approximately 10 days.

Q. Approximately 10 days?

A. Yes, sir.

791 Mr. DES ROCHES. By what method?

Mr. HARRY YOCKEY. Rail; I am talking about shipments that go out over The Pennsylvania Railroad.

The WITNESS. Well, of course, you understand there is a transfer.

Mr. HARRY YOCKEY. I am talking about the way the shipments move when they go out from your place at Sturgis.

The WITNESS. All right.

By Mr. HARRY YOCKEY:

Q. You ship them out by The Pennsylvania Railroad.

A. Yes.

Q. And that railroad in turn transfers them to some other railroad.

A. Yes.

Q. Is that it?

A. Yes.

Q. And that, you say, takes about 10 days?

A. Yes.

Q. Well, now, let us take a shipment coming inbound from some interstate point, some point from which you ship, a less-than-carload shipment, by way of The Pennsylvania Railroad in Michigan.

A. Coal moves that way.

Q. From where?

A. Somewhere in Kentucky, or West Virginia.

792 Q. In less-than-carload shipments?

A. Oh, pardon me. No.

Q. I am still talking, Mr. Witness, as I explained to you a moment ago, about less-than-carload shipments.

A. I can't think of any.

Q. Do you have any less-than-carload shipments coming in to you from Chicago by rail?

A. No.

Q. Or from Indianapolis?

A. No.

Q. Well, then, can you name me any point at all from which you do receive less-than-carload shipments coming in by rail?

A. Not right offhand.

Q. Well, now, why are you using truck line service at the present time in preference to the railroad, The Pennsylvania Railroad, to a given point?

A. Because the service is better.

Q. Because you are able to get from the truck lines a quicker service?

A. Yes.

Q. You would use the rail service—or rather, let me put it this way: would the rail service appeal to you if it were quicker than it is at the present time?

A. If it was quicker?

Q. Yes.

793 A. Why, yes.

Q. That would be a factor, would it not?

A. Yes.

Q. In other words, in the case of the shipments that you have described, as requiring 10 days to go from Sturgis, Michigan, to Los Angeles, California—that was your testimony, was it not?

A. Yes.

Q. —instead of requiring 10 days, if the railroad was able to cut off one day, or two days, from the time required for that movement, that would be a benefit to you in your business, would it not?

A. Probably.

Q. And that would be desirable to you, would it not?

A. Oh, probably it would, yes, sir; more so on the incoming, perhaps, than on the outgoing, however.

Q. But in any event, Mr. Witness, whether it be inbound or outbound, any speeding up of the service, whether by rail or by truck, is beneficial to your business, is it not?

A. Always.

Q. So if that kind of service were to be rendered to you, or offered to you by the railroad, you would not have any objection to it, would you?

A. No.

Q. That is, The Pennsylvania Railroad.

A. No.

794 Mr. HARRY YOCKEY. That is all.

Mr. BARKELL. Is that all?

Mr. DES ROCHES. Just one question.

Redirect examination by Mr. DES ROCHES:

Q. Mr. Smiley, how much quicker would the rail service have to be in order to give you the same type of service, say, between Chicago and Sturgis, Michigan, that you are getting at the present time from the truck companies?

A. From Chicago—

Q. Yes.

A. —to Sturgis?

Q. Yes. You are at the present time getting an overnight service by truck between those two points, are you not?

A. Yes.

Q. Well, then, my question is, how much quicker, how much faster would the railroad service have to be in order to give you the same kind of service between those two points, Chicago and Sturgis, for example, that you are receiving at the present time by truck?

A. I suppose it would have to be, on an average, at least three days.

Q. Three days.

A. Yes.

Mr. DES ROCHES. That is all.

Mr. BARKELL. Is that all?

795 Mr. HARRY YOCKEY. Nothing further.

Mr. BARKELL. If there are no further questions, the witness is excused.

(Witness excused.)

Mr. BARKELL. Call your next.

Mr. DES ROCHES. Mr. Moore.

E. M. MOORE was sworn and testified as follows:

Direct examination by Mr. DES ROCHES:

Q. Mr. Moore, will you give the Reporter your full name, please.

A. E. M. Moore.

Q. Where do you reside?

A. Sturgis, Michigan.

Q. Are you connected with some manufacturing company in that city?

A. Yes, sir.

Q. What company?

A. Laughlin Tool & Engineering Company.

Q. What is their business?

A. We manufacture tools, dies, jigs, and so forth.

Q. Is your company engaged in defense work?

A. Yes.

Q. Practically exclusively, would you say?

A. Exclusively.

796 Q. Exclusively—

A. Yes.

Q. 100 per cent?

A. Yes, sir.

Q. What is your capacity with the company?

A. Secretary-treasurer.

Q. In that capacity I take it you are familiar with the traffic problems of your company.

A. Yes.

Q. I take it that your company has both incoming and outgoing freight; is that correct?

A. Yes.

Q. Do you ship—and when I say “you,” I am referring to your company, your understand.

A. Yes.

Q. To points outside the state of Michigan?

A. Yes, sir.

Q. To what principal points?

A. Oh, we ship to a great many points, where there are shell loading plants and ordnance plants.

Q. Specifically, where?

A. Well, there is Springfield, Massachusetts; Watervliet, New York; points in Louisiana, Texas, Indiana, Michigan, Iowa, and Illinois; St. Louis territory; Detroit territory; Flint, Battle Creek—

797 Mr. BARKELL. Restrict your testimony to interstate movements, Mr. Witness, to or from points outside of the state of Michigan, please.

The WITNESS. Oh.

By Mr. DES ROCHES:

Q. To practically every point—

A. That was not the question that was asked, if I understood it correctly. Maybe you had better give it to me again.

Q. To practically every principal point in the United States, would you say, outside of the state of Michigan?

A. Well, no, sir; that is not quite true, either, because we do not ship into the west coast territory at all.

Q. Exclusive of the west coast territory?

A. And no Rocky Mountain territory either.

Q. I see.

A. Our shipments are quite largely, I should say, in the middle west, although of late we have been shipping to arsenals and shell loading plants in the far south, and in New England also.

Q. Now, your company also has incoming freight, I believe you testified.

A. Yes.

Q. Can you tell us from what principal points, outside of the state of Michigan, your incoming freight moves?

A. Cleveland and Chicago; Pennsylvania.

Q. How is your incoming freight being handled at the present time?

798 A. Quite largely by truck.

Q. What can you say as to the service which you are getting from the common motor carriers in the transportation of your incoming freight at this time?

A. Well, about all I can say is, that I am unusually well pleased with it—if that will answer your question.

Q. Yes, sir. Are you also using the service of common motor carriers in the movement of your outgoing freight?

A. Yes.

Q. What can you say as to the type of service that the common motor carriers are rendering you in that connection?

A. It is remarkably good.

Q. Now, Mr. Moore, insofar as your company is concerned, would you say that you have any need for any additional transportation service at the present time?

A. None whatever.

Q. You have used, I take it, to some extent at least, rail service in the movement of your shipments, have you not?

A. On occasion.

Q. Have you had any experience—or rather, what has your experience been in connection with the use of rail service?

A. I am not well satisfied with it.

Q. You say, you are not well satisfied with it?



A. No.

799 Q. Is that by reason of any particular thing, or any particular fact, that has arisen in connection with your use of that service?

A. Well, that is just from my own general experience—or from our general experience with it.

Q. Well, to be a little more specific, have you experienced any delay, for example, in connection with rail shipments recently?

A. Yes, sir; we have. We had a rather unusual case just lately. We had an incoming shipment of steel that came from Cleveland territory in a gondola car—

By Mr. HARRY YOCKEY:

Q. Just a moment, please. I would like to ask the witness right there: was that a carload shipment or a less-than-carload shipment?

A. Less-than-carload.

Q. All right.

A. Or rather—no. Pardon me. I believe I am wrong about that. It came in a carload, I believe.

Q. That was a carload shipment?

A. Yes. I know it was.

Mr. HARRY YOCKEY. Objection.

By Mr. DES ROCHES:

Q. Well, now, which was it, Mr. Moore, as you recall it now; a carload shipment or a less-than-carload shipment?

800 A. Well, I can tell you this, that it was a 27,000 pound shipment, but it consumed the entire car, or used the entire car; that is, we didn't ship anything else with it, as far as that goes.

Mr. HARRY YOCKEY. I object.

By Mr. DES ROCHES:

Q. Did you say, 2,700 pounds, or 27,000 pounds?

Mr. LINDSTRAND. He said 27,000 pounds.

A. 27,000 pounds.

Mr. DES ROCHES. All right. I will concede that that is not involved, if that was a carload.

By Mr. DES ROCHES:

Q. Have you had any experience—

A. Well, now, just a moment. I wouldn't call 27,000 pounds of steel a carload, either.

Q. Well, then—

Mr. LINDSTRAND. Well, now, he has given it both ways. Which was it?

Mr. EGGERS. Let him proceed.

By Mr. DES ROCHES:

Q. Was that a carload?

A. No.

Q. All right. Then, will you just go ahead and tell the Joint Board and the Commission your experience in connection with that particular shipment.

A. Well, as I started out to say, they shipped it in a gondola car, and it cost me \$25, and involved a delay of one day, getting it unloaded.

Q. How long did it take from the time the car left the 801 point of origin, until it reached your place of business?

A. I don't know.

Q. How?

A. I don't know.

Q. All right. Have you had any experience in connection with any other shipments—that is, any other rail shipments?

A. Yes.

Q. What?

A. Well, I shipped a couple of packages on the 16th day of this month by the New York Central Railroad to the Watervliet Arsenal at Watervliet, New York, and I received a telephone call from the arsenal at Watervliet, New York, last Friday, asking me when we expected to forward the shipment. We told him that it had been gone then pretty close to two weeks, and that we would send a wire tracer after it.

Q. Has the carrier since traced the shipment?

A. Yes.

Q. Has the shipment reached its point of destination as yet?

A. That I don't know. You see, we got the message only Friday, and immediately notified the railroad company, and the railroad said they would put a tracer on it, and that was all I knew about it up to the time I left the office this morning.

By Mr. EGGERS:

Q. Mr. Witness, did I correctly understand you to say that that was the New York Central Railroad?

A. Yes.

802

By Mr. DES ROCHES:

Q. Was that shipment picked up by the New York Central?

A. No; we delivered the shipment ourselves to the New York Central depot there in Sturgis, and then they shipped it on to Watervliet, New York—or at least they were supposed to ship it there.

Q. What common motor carrier service are you using at the present time in connection with your incoming and outgoing shipments?

A. Well, our incoming stuff comes Q. I. M. Transit Corporation; Day's Transfer; Conklin; Associated Truck Lines; Norwalk Truck Line Company; and Interstate Motor Freight System.

Q. What about the outgoing?

A. Why, as far as the outgoing shipments are concerned, I would say that they are handled by the same companies, quite largely.

Mr. DES ROCHES. That is all.

Mr. BARKELL. Cross-examine.

Cross-examination by Mr. HARRY YOCKEY:

Q. Mr. Moore, your company does receive in-bound shipments in less than carload lots by way of The Pennsylvania Railroad in interstate commerce, does it not?

A. Yes, sir—that is, we have. That has been very rarely, I would say, however.

Q. But you do on occasion——

A. Yes.

Q. ——receive such shipments?

803 A. On occasion; yes.

Q. And do you make any shipments out of the state of Michigan by way of The Pennsylvania Railroad into other states in less than carload quantities?

A. Why, that is not very often there, either. That is also a very rare occurrence, I would say.

Q. Why do you not send your business by The Pennsylvania Railroad?

A. (No answer.)

Q. Does the time element, the amount of time required to transport the shipments, have anything to do with it?

A. Why, yes, sir; to be frank about it, it does have a lot to do with it. It is an important factor.

Q. Well, now then, if that time element can be reduced by the railroad on the particular shipments, for the movement of which you are using the railroad, both in-bound and out-bound, that would be of benefit to your company, would it not?

A. If they could reduce it?

Q. Yes.

A. Why, yes, sir; if they could reduce the time required, that would be a benefit to us, certainly.

Q. Yes.

A. Very obviously.

Q. Regardless of whether it was one shipment, or ten shipments.

A. Yes.

804 Q. To whatever extent it was, it would be a benefit to you.

A. Well, yes, sir; that is true; but they would have to make a very substantial reduction, I would say, in order to interest us, however.

Q. But in general, whatever reduction they might make, would be of just that much benefit to you, would it not?

A. Yes.

Q. To whatever extent they did improve the service.

A. Oh, yes; that is true, obviously; any improvement in the service would be an improvement, obviously.

Q. Yes; and would be a benefit to you, would it not?

A. Well, it would be a benefit to us if we were able to use the service after they had improved it, if they were able to improve it.

Q. Well, now, then, I am talking about the shipments that you actually are sending that way by The Pennsylvania Railroad, and the shipments that you actually are receiving by The Pennsylvania Railroad.

A. Yes.

Q. As far as those particular shipments are concerned.

A. Yes.

Q. Whatever the improvement might be, you would like to have it, would you not?

A. Very much.

Mr. HARRY YOCKEY. That is all.

805

Mr. DES ROCHES. Just a moment.

Redirect examination by Mr. DES ROCHES:

Q. Mr. Moore, you would not be satisfied with a saving of 24 hours in time, in the case of a shipment that the railroad took eight days to deliver, would you?

A. No, sir; I certainly would not; and I would say frankly that I am totally dissatisfied with the railroad service. We do not use it, as I stated before, except in rare instances. As a matter of fact, we rarely ever use it, and I don't know just exactly why we ever do use it.

Q. In other words, then, do I correctly understand your position to be that you would require a saving in time of more than 24 hours, or even a 48-hour saving, having in mind the service that you are getting at the present time from the railroad?

A. Yes, sir; that is correct. I would require a terminal service; I would require an agent who knew his business; I would require somebody who was on the job, to answer the telephone when I rang it; I would require somebody who would solicit my business, and would call around once in a while to find out in what way he could help us—instead of just taking the business when we have no other alternative, except to give it to them.

Q. And are those things, which you have just enumerated, which you say you would require, in existence in your transportation service at the present time?

806 A. Not in connection with the railroad, they are not, and most distinctly not; no, sir.

Mr. DES ROCHES. That is all.

Mr. BARKELL. Are there any further questions?

Mr. HARRY YOCKEY. I think that is all.

Mr. CLARDY. I would like to ask the witness one or two questions, your Honor.

By Mr. CLARDY:

Q. Witness, Mr. Yockey asked you this question in substance: no matter how infinitesimal—that is what the question implied—the improvement might be, would it not still be of some benefit to you?

Mr. HARRY YOCKEY. Just a moment.

Mr. CLARDY. If I may finish my question.

Mr. BARKELL. Go ahead and finish your question.

Mr. HARRY YOCKEY. Yes..

By Mr. CLARDY:

Q. Now, my question is on the same premise as his, and I ask you if that improvement in the rail service were to be given you by the use of some existing motor carrier service already in the field, would that be just as satisfactory to you as having The Willett Company perform that service?

A. I am not familiar with The Willett Company.

Q. That is, the applicant here.

A. Oh.

Q. With that in mind, do you understand the question that I am putting to you, now?

807 A. I think so.

Q. May we have an answer, then?

A. Wherever the service could be facilitated, or improved, why, of course, I would be delighted, and obviously so.

Q. But my question, Witness, is, would it make any difference to you whether it was The Willett Company that rendered the service, or any one of these other carriers that have been named here?

A. Oh. I misunderstood your question. No, sir, it would not; it would not make the slightest difference.

Q. It would be just as agreeable to have one of the carriers already in the field serve you, as it would be to have The Willett Company render the service, then, would it?

A. Perhaps I can answer the question this way, by saying that I would be very happy to get any extra service, or any bet-



ter service, that might be made available, from whatever source it might come.

Mr. CLARDY. I believe that is all.

Mr. BARKELL. Are there any further questions of the witness?

Mr. HARRY YOCKEY. Nothing.

Mr. BARKELL. If there are no further questions, the witness is excused.

(Witness excused.)

Mr. BARKELL. I would like to announce at this time, gentlemen, that in the event that it is necessary for us to continue  
808 this hearing over into tomorrow, this same room will be available.

Mr. CLARDY. It will be?

Mr. BARKELL. Yes. So if we do have a hearing tomorrow, you are all on notice that we will reconvene here. Call your next witness, please.

Mr. DES ROCHES. Mr. Fleser.

VICTOR S. FLESER was sworn and testified as follows:

Direct examination by Mr. DES ROCHES:

Q. Mr. Fleser, will you give your full name to the Reporter, please.

A. Victor S. Fleser.

Q. Where do you live?

A. Moline, Michigan.

Q. What is your business?

A. Farm implements.

Q. Do you operate a hardware store in Moline?

A. No; farm implements.

Q. Just farm implements?

A. Exclusively.

Q. How long have you been in business there?

A. Approximately four years.

Q. How large is Moline?

A. 350.

809 Q. The population is approximately 350?

A. Why, somewhere along in there; yes, sir, around 350 or 400. I don't know just exactly the figure.

Q. Are there any industries located there?

A. No.

Q. Are there very many, if any, shippers of freight in the city of Moline—

A. No.

Q. Or is it just a village?

A. Just a village.

Q. Just a small point.

A. Yes, sir.

Q. With a store or two?

A. Yes, sir. There is a drug store.

Q. A drug store?

A. Yes.

Q. And some grocery stores?

A. Yes.

Q. And that is about all that there is there in the way of business, other than your own organization; is that correct?

A. Yes.

Q. Now, I take it that you receive incoming freight at your place of business.

A. Yes.

Q. From various points in the United States?

810 A. Yes, sir.

Q. Will you tell the Board from what principal points in the United States you receive incoming shipments?

A. Why, we get in shipments there from Milwaukee, Wisconsin, and from LaCrosse, Wisconsin, and also from La Porte, Indiana.

Q. Do you have any outgoing shipments?

A. We don't have any outgoing shipments of freight at all; no, sir.

Q. How are your shipments, your incoming shipments, being handled at the present time, in the way of transportation service?

A. Why, in carload lots—that is, some of them are in carload lots, and others are just local freight.

Q. How many times in the course of a year do you receive shipments in carload lots?

A. Well, I believe we have had approximately 12 cars come in, so far this year.

Q. 12 cars this year?

A. So far; yes.

Q. And the balance of your incoming freight is handled by what method?

A. Truck.

Q. By truck.

A. Yes, sir.

Q. What percentage of the whole of your freight, the entire volume of your freight, would you say is handled by motor  
811 common carrier?

A. Well, that particular tonnage would be very light, I would say, because it consists just of small parts repairs, and so forth, and so on.

Q. What can you say as to the present service that you are receiving from the motor common carriers?

A. Very satisfactory.

Q. Insofar as you are personally concerned, would you say that you have any need for any additional transportation service?

A. I wouldn't say so; no, sir.

Mr. DES ROCHES. That is all.

Mr. BARKELL. Cross-examine.

Cross-examination by Mr. HARRY YOCKEY:

Q. May I have your name again, sir?

A. Fleser.

Q. Mr. Fleser, are you using Pennsylvania Railroad service at the present time for the movement of any of your less than carload shipments in interstate commerce?

A. No.

Q. How long has it been since you had occasion to use The Pennsylvania Railroad on a less than carload shipment in interstate commerce?

A. Oh—

Q. Approximately.

A. I couldn't hardly answer that question; I couldn't recall, because we don't get but very little in that way. I

might add that the railroad has got an agent who is there only a couple of hours per day, and it makes it very inconvenient.

Q. Well, approximately how long has it been since you used The Pennsylvania Railroad on a less than carload shipment?

A. (No answer.)

Q. Do you have any idea?

Mr. LINDSTRAND. Just a moment. Would you go back, please, Mr. Reporter, and read the last answer of the witness.

(Answer read.)

Mr. HARRY YOCKEY. I misunderstood his answer. I move that that the answer be stricken from the record as not being responsive to the question.

Mr. CLARDY. Oh, I think it is.

Mr. BARKELL. Read the question, please.

(Question read.)

Mr. CLARDY. I submit, your Honor, that the answer is clearly responsive to the question.

Mr. EGGERS. No.

Mr. BARKELL. No; that answer is not responsive. I think the witness can answer the question.

Mr. HARRY YOCKEY. I think the last portion of the answer, anyway, should be stricken out, after he says that he has not had very many.

Mr. BARKELL. Answer the question as it was put to you,

813 Mr. Witness.

A. How long has it been since I had one?

By Mr. HARRY YOCKEY:

Q. Yes; how long has it been since you had a less than carload shipment move in interstate commerce over The Pennsylvania Railroad?

A. Well, now, let me see. I can't tell you just exactly, but I would say probably around eight months ago, or maybe it was even a little longer than that. Maybe a year ago.

Q. That is all right. I do not expect you to pin yourself down to an exact date. It was something less than a year ago.

A. Yes.

Q. Where did that particular shipment come from?

A. Well—

Q. If you recall.

A. It would be pretty hard for me to answer that, too, because it is hard for me to recall. Let me see, now. Well; I would say that shipment came probably either from La Porte, Indiana, or from Milwaukee, Wisconsin.

Mr. HARRY YOCKEY. That is all.

Redirect examination by Mr. DES ROCHES:

Q. Now, Mr. Fleiser, Mr. Yockey just asked you the question as to how long it had been since you had used railroad service in connection with the movement of a less than carload shipment.

A. Yes.

814 Q. In the first answer that you made to his question, you started to say something about being placed at an inconvenience of some sort or other.

A. Yes.

Q. I am not sure that I understood your answer. Will you state again, please, what that inconvenience is?

Mr. HARRY YOCKEY. Well, now, just a moment. That portion of the answer was stricken; if the Joint Board please. That is no longer in the record.

Mr. DES ROCHES. Nevertheless, I submit that I have a right to go into that now, and ask him to elaborate on that.

Mr. HARRY YOCKEY. Oh, no. That was objected to, and there was a motion to strike, and the Joint Board granted the motion, if I recall correctly.

Mr. CLARKE. I do not believe there was any ruling.

Mr. DES ROCHES. Come to think of it, I do not believe that the Board did make a specific ruling on counsel's motion.

Mr. BARKELL. Well, if we did not do so in so many words, the record may show that the intention was to strike the answer to that particular question.

Mr. HARRY YOCKEY. Well, then, it is out of the record, and I object to counsel's question on that ground.

Mr. DES ROCHES. But regardless of what may have happened, as to that particular answer, I have the right at this time to ask him a direct question regarding what he started to say.

815 Mr. BARKELL. You are asking him a direct question now.

Mr. DES ROCHES. Yes.

Mr. HARRY YOCKEY. About something that is not in the record.

Mr. DES ROCHES. The answer that was stricken out on Mr. Yockey's motion, was an answer to a question directed to the witness by Mr. Yockey on cross-examination; and the answer was stricken as not responsive.

Mr. BARKELL. Yes.

Mr. DES ROCHES. Now, if the Board please, I am directing another question, a direct question, to the witness.

Mr. HARRY YOCKEY. Will you read that question please, Mr. Reporter?

(Question read.)

Mr. DES ROCHES. Strike it out.

By Mr. DES ROCHES:

Q. Mr. Fleser, you have not used rail service in connection with the movement of any less-than-carload shipment for some time, have you?

A. No.

Q. Why not?

A. Because of the inconvenience.

Q. Can you be a little bit more explicit as to that? Because of the inconvenience in what way?

A. Why, as I tried to tell you before, because we don't have any agent there, except for about two hours per day.

816 Q. Is there a railroad station at Moline?

A. Yes, sir.

Q. Is there an agent stationed there at all times?

A. No.

Q. Are there any transportation facilities connected with the railroad at Moline?

A. As to passenger service?

Q. No; truck service.

A. Yes.

Q. When a shipment comes in, a less-than-carload shipment, by rail into Moline, how do you get delivery of that shipment to your place of business there?



A. Oh, I beg your pardon. I misunderstood your last question. There is not any truck service maintained there by the railroad company; no, sir.

Q. There is no truck service of the railroad?

A. No.

Q. Well, then, how do you obtain delivery at the present time of a less-than-carload shipment from the railroad depot to your place of business?

A. We have to go after it.

Q. You have to go after it yourselves?

A. Yes.

Q. And how do you secure your delivery when a less-than-truckload shipment comes in by a common motor carrier?

817 A. Delivered direct to our door.

Q. In that case it is delivered direct to your door.

A. Yes, sir.

Q. Is that a service that you feel is desirable?

A. Very much so.

Q. Is that one of the reasons why you feel you need motor carrier service?

A. Yes.

Q. Because you want, and they give you, that expedited service?

A. Yes, sir.

Mr. DES ROCHEs. That is all.

Mr. BARKELL. Are there any further questions?

Mr. HARRY YOCKEY. Yes.

Re-cross-examination by Mr. HARRY YOCKEY:

Q. Mr. Witness, does the time element, the time involved, enter into any phase of the situation, as to why you do not use the rail service?

A. The time element?

Q. Yes.

A. How do you mean?

Q. I mean, the time that is involved, the time it takes to transport a rail shipment.

A. Well, the fact of the matter is, I have used the service, the railroad service, so very rarely, that it would be pretty difficult for me to say as to that, because the service that we  
818 have had there, as far as the railroad is concerned, has been very unsatisfactory; there is the inconvenience that I told you about, with no agent there; and we have just got to go up there and get it when it comes in, when he is there. Otherwise, we will have to wait another day before we are able to get it.

Q. But you do not have any conception of the time element that enters into those shipments by railroad, as far as you are concerned?

A. Why, no, sir; I really couldn't say. I haven't been using it, so I wouldn't know.

Q. You would not know.

A. No.

Q. But if the service, the railroad service, were improved, you would like to have that improved service, would you not?

A. Well, I don't use the railroad, but if I did, possibly, why, I would like to have an improved service; yes. Anybody would.

Q. You would like to have an improved service.

A. Yes.

Q. Whether that quicker delivery was effected by having a truck operating through there, or however it might be; is that not correct?

A. Yes.

Mr. HARRY YOCKEY. That is all.

Mr. DES ROCHES. Just a moment.

819 Redirect examination by Mr. DES ROCHES:

Q. If I understand you correctly, Mr. Fleser, you are perfectly satisfied with your present service; is that correct?

A. Yes.

Q. So that any improvement in the rail service, so far as you are concerned, would not mean anything, would it?

A. Why, as far as I am concerned, I don't see how it would; no, sir; because I am satisfied with the service that I am getting now.

Q. Well, I say, any improvement, then, in the rail service, would not mean anything particularly to you, would it?

A. No.

Mr. DES ROCHES. That is all.

A. (Continuing), They couldn't improve it, as far as I am concerned.

Mr. DES ROCHES. That is all.

Mr. BARKELL. If there is nothing further—

Re-cross-examination by Mr. HARRY YOCKEY:

Q. Let us put it this way—

Mr. BARKELL. Well, now, just a moment, Mr. Yockey. Let us not waste all day cross-examining and re-cross-examining the witness on a service that he says he is not using, and is not familiar with.

Mr. HARRY YOCKEY. All right.

820 Mr. CLARDY. And by the way, if I understand it correctly, there is nothing in this application that involves keeping a station agent at that point any longer than he is kept there at the present time, that I know of—is there?

MR. HARRY YOCKEY: Well, now, why go into that? That has nothing to do with the issue here.

MR. CLARDY: You went into it.

MR. HARRY YOCKEY: No; I did not.

MR. BARKELL: Are there any further questions of this witness, gentlemen?

MR. DES ROCHES: That is all.

MR. BARKELL: If not, the witness is excused.

(Witness excused.)

MR. BARKELL: Call your next.

MR. DES ROCHES: Mr. Pool.

CLAYTON POOL was sworn and testified as follows:

Direct examination by MR. DES ROCHES:

Q. Mr. Pool, will you give your full name to the Reporter, please.

A. Clayton Pool.

Q. Where do you live?

A. Wayland.

Q. Michigan?

A. Yes.

Q. What is your business?

821 A. The wholesale and retail distribution of petroleum products; and agent and distributor for the Gulf Refining Company.

Q. How large a town is Wayland?

A. About 1,000.

Q. Is there any leading industry in the town?

A. Why, the only leading industry there, that I know of, is the Pet Milk plant there.

Q. Employing how many men?

A. Oh, I dare say, just from what I know about it, employing in the neighborhood of between 75 and 100 men.

Q. That industry has been there for some time, has it?

A. Yes.

Q. A good many years?

A. A great many years.

Q. How long have you lived in the village of Wayland?

A. About 16 years.

Q. 16 years?

A. Yes, sir.

Q. Do you have any incoming freight?

A. Oh, yes.

Q. Do you have any outgoing freight to any extent?

A. Very little

Q. Does your incoming freight come to you from points outside of the state of Michigan?

A. Yes.

822 Q. What points?

A. There are one or two points outside the state.

Q. What are those points?

A. One of them is Toledo, Ohio, and the other one is Philadelphia.

Q. Philadelphia, Pennsylvania?

A. Yes, sir. I get in about one or two shipments per year, I would say, from Philadelphia.

Q. How are those shipments being handled at the present time?

A. Why, the shipments from Philadelphia have been coming in in what we term split cars. In other words, I am unable to handle a full car of this particular product, you understand, so that it comes in as a stop-over. Kalamazoo gets, probably, part of the car, and the rest of it comes in to me; or the full car may be pulled into my place, and part of the car taken out at my place, and then it is moved on into Grand Rapids.

Q. I see. So far as you are concerned, then, it is a less-than-carload shipment?

A. Yes.

By Mr. EGGERS:

Q. Right there, let me ask you: what product is it that you are handled, or interested in?

A. The product that comes that way?

Q. Yes.

A. Motor oils and greases.

Q. In cans or drums?

823 A. In cans, and drums, and various packages.

Mr. EGGERS. All right.

By Mr. DES ROCHES:

Q. You are agent at Wayland, I believe you stated, for the Gulf Refining Company; is that correct?

A. Yes.

Q. Agent and distributor, I believe you said.

A. Yes.

Q. In the village of Wayland.

A. Yes.

Q. And the balance of your incoming freight is handled—

A. By permitted carriers.

Q. Common motor carriers.

A. Yes.

Q. Interstate freight, we are talking about.

A. Yes.

Q. State whether or not the service, which those particular carriers are rendering your company at the present time, is satisfactory.

A. Very satisfactory.

Q. You have no reason to complain, then, about the existing transportation service which your company is receiving, have you?

A. None whatever.

Q. Insofar as you are concerned, or insofar as your company is concerned, would you say that there is any need for any additional transportation service at Wayland, Michigan?

824 A. I don't think that there is any need for any additional transportation service there; no, sir.

Mr. DES ROCHES. That is all.

Mr. BARKELL. Cross-examine.

Cross-examination by Mr. HARRY YOCKEY:

Q. Mr. Witness, these shipments which come from Toledo, Ohio, are split, you say, between you and—

A. No; Philadelphia.

Q. From Philadelphia?

A. Yes; and from Pittsburgh, some of it.

Q. Pittsburgh?

A. Yes, sir. Some from Pittsburgh, and some from Philadelphia. That comes either from Philadelphia or Pittsburgh, where the Gulf Refining Company has two of its large refineries.

Q. Do you ever have any less-than-carload shipments, aside from those two points, come in over the Pennsylvania Railroad?

A. No.

Q. Now, then, if those particular shipments could be expedited in their movement, that is, if you could get them from 24 to 48 hours quicker than you have been able to get them, would that be of any value to you?

A. You say, if we could get them—I don't know if I just get that question. Will you state it again.

Q. If the delivery of your less-than-carload shipments could be expedited or speeded up from 24 to 48 hours, that would  
825 be of some service to you, would it not?

A. Well; now, as far as those less-than-carload shipments which come from Philadelphia or Pittsburgh are concerned, or wherever they might come from, really, I wouldn't have any way of telling whether or not the railroad company would be able to speed that service up by 24 hours, or not.

Q. I am asking you, if they can; assuming that they can. If they can give you a quicker delivery by from 24 to 48 hours, that would be an advantage to your business, would it not?



A. Oh, I don't believe that it would be of any particular advantage to us; no, sir.

Q. Why not?

A. Well, for the simple reason that most of those products are usually ordered in advance, under our specified system of ordering, so that the matter of a day or two in the time when they might get in, wouldn't make any particular difference to me, as far as most of my stuff is concerned.

Q. It wouldn't make any difference to you at all——

A. No particular difference.

Q. As to when they delivered those shipments?

A. No.

Q. Is that also true of your shipments by truck?

A. It isn't true of shipments within the state.

Q. Within the state?

A. Well, yes.

826 Q. Well, I am talking now about interstate shipments.

A. Interstate?

Q. Yes; from outside the state.

A. Well, it still wouldn't make any particular difference to me, as far as interstate is concerned; no.

Q. Do I correctly understand you to mean, Mr. Witness, that the time element does not enter into the delivery of your shipments by rail from any point?

A. Not as far as a day or two is concerned; 24 to 48 hours, say; no, sir. If it was going to be longer than that, though, several days, that would make a different situation.

Q. But a saving, or a speeding up in time of from 24 to 48 hours, would not mean anything to you?

A. No.

Q. Either by truck or rail?

A. No.

Mr. HARRY YOCKEY. That is all.

Mr. BARKELL. Are there any further questions of the witness?

Mr. CLARDY. Yes.

By Mr. CLARDY:

Q. Witness, where did you say this car goes first, before it moves on to you?

A. If Kalamazoo has an order in there for a part-car at the same time I do, why, then the car stops first over at Kalamazoo.

By Mr. BARKELL:

827 Q. Let me ask you right there: do you have anything to do with the routing of this traffic?

A. Do I?

Q. Yes.

A. No.

Q. It is routed by the Gulf Refining Company, is it?

A. It is routed by the Gulf Refinery.

Mr. BARKELL. Go ahead.

By Mr. CLARDY:

Q. Does it move to the initial point of Kalamazoo, where there is a combined carload for the two points?

A. Yes, sir; it does, if it all comes in the one car at the same time.

Q. Yes. When it moves in that fashion, it always goes to Kalamazoo first, does it—

A. Yes.

Q. Or does it sometimes come to your place first, and then is it taken over to Kalamazoo?

A. No, sir; Kalamazoo leads every time. That is, whenever I have received a part-car with Kalamazoo, the car has already stopped at Kalamazoo first.

Q. So that—

A. Of course, if I might just add—there would not be—well, never mind that, either. I guess that answers the question.

Q. So that, then, unless there is something in this application that deals with a transfer, under their proposed set-up, from a car to a truck at Kalamazoo, their trucks could not handle it, could they?

Mr. HARRY YOCKEY. Just a moment. I object to the question, if the Joint Board please, as being entirely leading, and as getting the witness into a matter with which the witness is not acquainted.

Mr. CLARDY. Oh, no.

Mr. BARKELL. What are you trying to get at, now, Mr. Clardy?

Mr. CLARDY. I want to develop—

Mr. BARKELL. The witness has testified that a speeding up of from 24 to 48 hours would not make any difference to him.

Mr. CLARDY. I want to develop, your Honor, that so far as this particular movement is concerned, whether 24 or 48 hours, or any other number of hours, would be of any value to this witness or not, it could not be handled that way. I say that, because under the application, as they have explained it, the key set-up would not permit such handling at Kalamazoo; and I want to show very clearly on this record that this system cannot be used there.

Mr. HARRY YOCKEY. If the Joint Board and the Commission please, this witness has testified several times here, now, that it would not make any particular difference to him if the service was speeded up from 24 to 48 hours. Now, why go any further into it?

Mr. EGGERS. He does not control the routing of the ship-

829 ments, either, according to his own testimony, so I do not think he would have very much knowledge of how the shipments are handled, since he does not have any control over them.

Mr. CLARDY. That is an added reason, your Honor, why our position is sound. I want to get it clearly into this record; if I can, that unless there is something in the application that will permit a transfer at Kalamazoo, it cannot be of any benefit to this man, and could not be handled by truck anyway. That is all I am trying to develop by that last question.

Mr. BARKELL. It seems to me that is already in the record, Mr. Clardy.

Mr. CLARDY. Well, then, I will get at it another way. Strike out that question.

By Mr. CLARDY:

Q. Witness, the particular car that has one of these shipments in it is never broken up any place but at Kalamazoo, is it?

A. Well, it just depends on what sort of a shipment is going to the consignee at either one of the two points. In other words, if I can handle a full carload, the car will come right straight through from Philadelphia or Pittsburgh to my place; but if I cannot handle a full carload, why, then there is a stop-over of that car, over at Kalamazoo and part of the car is unloaded at Kalamazoo, and then the rest of it comes on into Wayland.

Mr. CLARDY. Thank you.

830 Mr. BARKELL. Are there any further questions of the witness?

Mr. DES ROCHES. Nothing further.

Mr. HARRY YOCKEY. I have no further questions.

Mr. BARKELL. You may be excused.

(Witness excused.)

Mr. BARKELL. Call your next.

Mr. DES ROCHES. Mr. Patterson.

THOMAS CLYDE PATTERSON was sworn and testified as follows:

• Direct examination by Mr. DES ROCHES:

Q. Mr. Patterson, will you give your full name to the Reporter, please.

A. Thomas Clyde Patterson.

Q. Where do you live?

A. Martin, Michigan.

Q. What is your business?

A. Hardware and implements.

Q. How large is Martin?

A. About 400.

Q. How many?

A. 350 to 400.

Q. Are there any industries located there?

A. No.

Q. No manufacturing?

831 A. No, sir.

By Mr. EGGERS:

Q. Will you locate Martin for us, please?

A. How is that?

By Mr. DES ROCHES:

Q. Where is Martin?

A. Why, Martin is located between Kalamazoo and Grand Rapids; just about half way between.

Mr. DES ROCHES. It is on one of the routes covered by this application, your Honor.

By Mr. DES ROCHES:

Q. Your business again?

A. Hardware and implements.

Q. I take it you have incoming freight.

A. Yes.

Q. How often do you have occasion to have freight moving into your place of business there at Martin?

A. Well, during the summer months quite often.

Q. Quite often—

A. During the summer; yes, sir.

Q. Do you receive some shipments coming from points outside of the state of Michigan?

A. Yes; but very few.

Q. Very few.

A. Right.

Q. How do those shipments move: that is, by rail, or by motor truck?

A. Well, most of them by truck, I would say.

832 Q. Most of them by truck?

A. Yes.

Q. Can you give us the names of the common motor carrier, or common motor carriers, that are handling those shipments for you?

A. Yes, sir. We have specified Associated.

Q. Associated Truck Lines.

A. Yes, sir.

Q. And is that particular company rendering you good service at the present time?

A. Absolutely; yes.

Q. Do you have any reason to complain about the service that that company is rendering you?

A. No.

Q. Insofar as you are personally concerned, then, would you say that you have any need for additional transportation service?

A. No, sir; I would not.

Q. Now, have you ever used the service of the railroad in connection with a less-than-carload shipment?

A. Oh, I have; yes.

Q. You do have such shipments from time to time?

A. That was years ago.

Q. How long has it been since you have used the service of the railroad?

833 A. Well, now, let me correct that. We still get, now and then, a shipment by The Pennsylvania Railroad.

Q. I take it, in your business there in the village of Martin, the element of time does not mean very much to you, does it—to the extent, say, of 24 or 48 hours?

A. (No answer.)

Q. In connection with incoming shipments, I am talking about.

Mr. HARRY YOCKEY. Now, just a moment. I want to object, if the Joint Board please, not so much to that particular question, but to any future questions like it, because the question is leading.

Mr. DES ROCHES. It is the same identical question, if your Honors please, that has been asked every witness who has been produced here today, on cross-examination; and I submit, I am entitled to ask the same sort of question. I am just asking him whether the time element does or does not mean anything to him.

Mr. HARRY YOCKEY. The question is objectionable.

Mr. BARKELL. And are you objecting to it?

Mr. HARRY YOCKEY. Yes; I am objecting to it, your Honor, on the ground that it is leading.

Mr. BARKELL. The objection is sustained.

Mr. DES ROCHES. It is in issue here; they have made it an issue here.

Mr. EGGERS. The question was a leading question, though, counsel. You will not deny that.

834 Mr. DES ROCHES. But he did not make his objection on that ground, as I understood it.

Mr. HARRY YOCKEY. Yes, I did.

Mr. BARKELL. He is making the objection on that ground now, and the objection is sustained. Proceed.

By Mr. DES ROCHES:

Q. Mr. Witness, I will ask you to state whether or not the time element is vital, insofar as you are concerned, in connection with deliveries of your incoming freight?



A. In most cases; yes.

Q. I will ask you to state whether or not a difference of 24 to 48 hours in the time of delivery is vital to you, in connection with your shipments of incoming freight?

A. Do you mean a delay of that much?

Q. Yes.

A. Oh, it would be in a lot of cases; yes.

Q. In a lot of cases?

A. Yes.

Q. Will you give us the reason or reasons why you are using the service of common motor carriers in the light of the statement which you have just made?

A. Yes.

Q. Why, I say?

A. Because we are getting very prompt service.

Q. And you are well satisfied with it; are you?

A. Yes.

Mr. DES ROCHES. That is all.

835 Mr. BARKELL. Cross-examine.

Cross-examination by Mr. HARRY YOCKEY:

Q. Mr. Witness, when you refer to prompt service, you mean, do you not, that you get quicker service by truck than you do by railroad?

A. Yes.

Q. How much of a quicker service do you get from a given point?

A. How much quicker?

Q. Yes.

A. Oh, we can get stuff in from Grand Rapids by truck by calling up in the morning, and we will get it there by noon.

Q. And how long does it take on the railroad?

A. Well, now, I don't know just exactly how they are running right now, but they use to run that service every other day.

Q. Well, now, then, if that service could be speeded up 24 hours, by the railroad, that would be a benefit to you, would it not?

A. Well, I don't think there is any need for it.

Mr. CLARDY. Just a moment. As I understand it, the witness is talking about a movement from Grand Rapids, which would be intrastate.

The WITNESS. Yes.

Mr. HARRY YOCKEY. Oh, I did not so understand him.

The WITNESS. That is right.

Mr. HARRY YOCKEY. Let us strike everything from the record, then, about Grand Rapids.

836 Mr. EGGERS. Yes, that would be intrastate.

Mr. HARRY YOCKEY. Let us strike everything pertaining to Grand Rapids.

Mr. BARKELL. It may be stricken.

By Mr. HARRY YOCKEY:

Q. Well, now, from what points do you receive shipments by truck, interstate?

A. Lansing, Detroit—

Mr. EGGERS. No. You are still talking about intrastate points, now.

The WITNESS. Well—

Mr. EGGERS. He means points outside the state of Michigan.

Mr. HARRY YOCKEY. Outside.

The WITNESS. Outside Michigan?

Mr. HARRY YOCKEY. Yes.

Mr. BARKELL. Interstate points.

A. Well, now, let me see. Well, there would be Peoria, Illinois and South-Bend, Indiana.

By Mr. HARRY YOCKEY:

Q. All right. Let us take Peoria, Illinois. Do you receive those shipments by rail or by truck?

A. Truck.

Q. And how long does it take you to get one of those shipments in by truck?

A. From Peoria?

Q. Yes.

837 A. Well, now you have asked me something there that I can't tell you without looking at the freight bill.

Q. Can you give us a general idea?

A. Oh, I would say two or three days.

Q. Two or three days?

A. Yes.

Q. Do you get those shipments in by truck more quickly than you can by rail from that point?

A. Yes.

Q. How much quicker?

A. Well, I don't know, but as far as Chicago is concerned, from Chicago it is anywhere from two to four days.

Q. By rail?

A. Yes.

Q. From Chicago?

A. Yes.

Q. Well, now, we were talking about Peoria. How long would it be from Peoria?

A. Oh, if Chicago takes from two to four days, it would be another day, at least, I would say, from Peoria.

Q. Well, now, Mr. Witness, would it not be of advantage to you in your business if your shipments by rail could be shortened from 24 to 48 hours; that is, in the time of delivery, if that could be done?

A. Oh, you have asked me a foolish question.

838 Mr. EGGERS. Well, now—

Mr. DES ROCHES. Just answer the question.

Mr. BARKELL. That is not a foolish question.

Mr. EGGERS. That is what we are interested in knowing.

A. All right. Yes.

Mr. CLARDY. Read the question to the witness, please, Mr. Reporter.

Mr. BARKELL. He has answered.

By Mr. HARRY YOCKEY:

Q. Your answer is "Yes," is it?

A. Yes.

Mr. HARRY YOCKEY. That is all.

Mr. BARKELL. Is that all?

Redirect examination by Mr. DES ROCHES:

Q. Mr. Patterson, is there a railroad station in the city of Martin—or in the village of Martin?

A. Yes.

Q. Is there an agent stationed there all the time?

A. Yes.

Q. Are there any facilities available for delivering freight that comes into that station to the stores in Martin?

A. No.

Q. In other words, then, when you get in a shipment by rail there, you have to go down to the railroad station and pick it up yourself, do you?

A. Yes, sir.

839 By Mr. CLARDY:

Q. Is the answer "Yes"?

A. Yes.

By Mr. DES ROCHES:

Q. That is correct, is it not?

A. Yes, sir.

Mr. DES ROCHES. That is all.

Mr. BARKELL. Are there further questions?

Mr. HARRY YOCKEY. That is all.

Mr. CLARDY. Just a moment, Witness.

Mr. HARRY YOCKEY. Now, if the Joint Board and the Examiner please, may I say this, and I say it in all seriousness: I think that what Mr. Clardy is doing here, waiting until the witness has been examined on redirect, and then beginning his own examination, is unfair to the cross-examining counsel. In other words, the witness is put on and examined by his own counsel on direct, and then he is cross-examined by me, and then taken on redirect by his own counsel, and then Mr. Clardy comes along and goes into an entirely different line of questioning, which means that I have got to come back again, and cross-examine further on his questions.

Mr. CLARDY. Well, now, I am certainly entitled to examine this witness, or any other witness, and I am not at all particular as to the order in which it is done.

Mr. BARKELL. Off the record.

(Discussion outside the record.)

Mr. BARKELL. Back on the record. Do you have some 840 questions of this witness, Mr. Clardy?

Mr. CLARDY. Yes.

Mr. BARKELL. You may proceed.

By Mr. CLARDY:

Q. Witness, Mr. Yockey asked you the question a moment ago here, as to whether an improvement of service, if it was improved, would be of some benefit to you, and you said that it would be.

A. Yes.

Q. Now, may I ask you this: if the railroad service should be improved from Peoria, or Chicago, by from 24 to 48 hours, would that be sufficient of an improvement to make you use the rail service, instead of the truck service that you are using at the present time?

A. No.

Q. Why not?

Mr. HARRY YOCKEY. Now, just a moment. I want to object to that question. We are getting into another field, now.

Mr. CLARDY. Oh, no.

Mr. HARRY YOCKEY. We are not trying to take any business away from anybody.

Mr. CLARDY. Well, I wish—

Mr. HARRY YOCKEY. We are only trying to improve the existing service, and that is all we are trying to do.

Mr. CLARDY. I wish I could believe that.

Mr. BARKELL. That objection will be overruled. The 841 witness may answer.

The WITNESS. How is that, again?

By Mr. CLARDY:

Q. Just tell us why you would prefer to use the present truck facilities, that you are now using, rather than the rail service, even if the railroad did institute this new operation?

A. Why, I would still prefer to keep on using the truck service, because they deliver right to our door; and then the courtesy and cooperation that we have been getting from the truck drivers has been 100 percent.

Q. The service meets your needs, does it?

A. Yes.

Q. Or the needs of your organization.

A. Yes, sir.

Mr. CLARDY. That is all.

Mr. BARKELL. Now, Mr. Yockey, do you have any further questions of this witness?

Mr. HARRY YOCKEY. No.

Mr. BARKELL. If there are no further questions, the witness is excused.

(Witness excused.)

Mr. BARKELL. We will take a short recess at this time, before you put on your next witness.

Mr. DES ROCHES. Very well, your Honor.

(A short recess was taken.)

842 Mr. BARKELL. Come to order, please, gentlemen. Let us have the next witness.

Mr. DES ROCHES. Mr. Gores.

J. E. GORES was sworn and testified as follows:

Direct examination by Mr. DES ROCHES:

Q. Mr. Gores, will you give your full name to the Reporter, please.

A. J. E. Gores.

Mr. BARKELL. Now, gentlemen, I want to say right here, that beginning with this witness, we are going to have direct examination, cross-examination, and then redirect, recross, and any other redirect, if any, by the same counsel, and not by four or five different people.

Mr. DES ROCHES. Why, if your Honor please, I thought that I had been proceeding in a very orderly fashion here.

Mr. BARKELL. Yes, you have been, and I am not criticizing you. What I have in mind is, that we do not want any more of this indiscriminate examination, back and forth. Let us have that understanding right now, before you go any further with this witness.

Mr. DES ROCHES. Very well.



By MR. DES ROCHES:

Q. Where do you live?

A. Plainwell.

Q. Michigan?

843 A. Yes.

Q. What is your business?

A. Auto supplies and appliances.

Q. How large a town is Plainwell?

A. About 2,000.

Q. Located near Kalamazoo?

A. Yes.

Q. How far from Kalamazoo?

A. 12 miles.

Q. How long have you been in business at Plainwell?

A. Six years.

Q. You have both incoming and outgoing shipments there at Plainwell, I take it, have you not?

A. Mostly incoming.

Q. Mostly incoming shipments?

A. Yes.

Q. Does your freight move into Plainwell from points outside of the state of Michigan?

A. Yes.

Q. What points?

A. Chicago and Toledo.

Q. How is it being handled?

A. Truck.

Q. Is that service satisfactory?

A. Very.

844 Q. What trucks—or rather, what common motor carriers are serving you at this time?

A. Associated.

Q. Associated Truck Lines?

A. Yes.

Q. And for how long a period of time has that particular carrier been serving you?

A. About the same time.

Q. How long?

A. About six years.

Q. You have no complaint to make against the existing service that you are receiving, have you?

A. None.

Q. Insofar as your own company is concerned, would you say

Q. Are you getting an overnight delivery from Chicago at Plainwell?

A. No.

Q. Have you had occasion from time to time in the past to use the service of the rails?

A. No.

Q. Have you ever used rail service?

A. Very seldom.

Q. Are you getting an over-night delivery from Chicago at the present time, or not?

A. I am.

845 Q. Now, from—what did you say the other point was, from which your incoming freight moves?

A. Toledo, Ohio.

Q. You are using the service of the same carrier from both points, are you?

A. Yes.

Q. And you are getting an overnight service from both points?

A. Yes, sir—well, as far as Toledo is concerned, that takes about a day and a half.

Q. About a day and a half.

A. Yes.

Q. Daily service.

A. Yes.

Q. Do you feel that any carrier, water, rail, or otherwise, could give you a better service than that?

A. No.

Mr. DES ROCHEs. That is all.

Mr. CLARDY. May I inquire?

Mr. BARKELL. If you have any questions—

Mr. CLARDY. I have.

Mr. BARKELL. Can you ask your questions through Mr. Des Roches, and develop what you want to develop through him—that is, having him conduct the examination of the witness?

Mr. DES ROCHEs. Oh, your Honor—

846 Mr. BARKELL. I mean, if you care to conduct the examination that way.

Mr. CLARDY. I do not mind doing that, but I would like to ask just a question or two.

Mr. BARKELL. We do not want you to ask any of the questions that Mr. Des Roches has asked, over again.

Mr. CLARDY. Oh, no. I am sorry, your Honor. I did not even know that he had started. I was out of the hearing room.

Mr. BARKELL. Off the record.

(Discussion outside the record.)

Mr. BARKELL. Back on the record. Proceed.

By Mr. DES ROCHES:

Q. How many other carriers serve the city of Plainwell, Mr. Gores?

A. Other than Associated?

Q. Yes.

A. Well, now, let me see. There is Keeshin goes through there—Keeshin Motor Express, I believe; and there is A. & K.

Q. Any others?

A. That is about all I know of.

Q. How about Interstate Motor Freight System?

A. Oh, yes, Interstate goes through there, too.

Q. Have you had occasion in the past to use the services of those common motor carriers?

A. We always specify Associated.

Q. But the services of those carriers are available for your use, are they not?

847 A. Oh, yes.

Q. If you desire to use them.

A. Yes, sir.

Q. Do you know whether or not those carriers maintain and operate terminals in the city of Kalamazoo?

A. Yes.

Q. Do they, to your knowledge?

A. Yes, sir.

Q. That is true of all of the carriers that have been mentioned, is it?

A. Yes, sir.

Mr. DES ROCHES. That is all.

Mr. BARKELL. Are there further questions?

Mr. CLARDY. That leaves me with just one question, that I would like to ask, your Honor.

By Mr. CLARDY:

Q. Witness, Mr. Yockey here has asked the other witnesses certain questions, that I think you have heard, with respect to whether or not an improvement in the service by speeding up the time of delivery on the part of the railroad would be of some benefit to them.

A. Yes.

Mr. HARRY YOCKEY. Well, now—

Mr. CLARDY. What is it?

Mr. HARRY YOCKEY. Never mind. Go ahead.

By Mr. CLARDY:

848 Q. I would like to ask you this question, Witness: if the railroad should by reason of having this application

granted, be enabled to furnish a service that is speeded up to the extent of 24 to 48 hours, and they actually do furnish that service, would that still be of any advantage to you; having in mind the existing truck service which you presently use?

A. No.

Mr. CLARDY. That is all.

Mr. BARKELL. Cross-examine.

Cross-examination by Mr. HARRY YOCKEY:

Q. Why would you not use that?

A. How?

Q. Why would you not use that service?

A. I wouldn't have to.

Q. Are you using railroad service at all at the present time?

A. No.

Q. On interstate shipments?

A. No.

Q. How long has it been since you did use rail service on interstate less than carload shipments?

A. About six years.

Q. Do you control all of the shipping—the routing on all of the shipments that come into your place?

A. Yes.

Q. There is nothing that you do not control?

849 A. No.

Q. I see. Well, you are not using the rail service at the present time, and it would not make any difference to you, then, whether it was good; bad, or indifferent, would it?

A. No.

Q. You would not use it, anyway.

A. No.

Mr. HARRY YOCKEY. That is all.

Mr. BARKELL. Is that all?

By Mr. CLARDY:

Q. Witness, your answer to Mr. Yockey's last question was bottomed, was it not, on your prior statement that you are getting as good a service as you could possibly receive, from the trucking companies that are serving you at the present time?

Mr. HARRY YOCKEY. Just a moment.

A. Yes.

Mr. HARRY YOCKEY. I object to the question. Just a moment.

Mr. CLARDY. I just had the one question.

Mr. HARRY YOCKEY. I do not care whether you have one question, or a hundred and one questions. We have started to go back and forth again, and that is the very thing that the Joint Board said they did not want. This is not redirect examination, now.

Mr. BARKELL. I thought you were through.

850 Mr. HARRY YOCKEY. I was through, as far as my cross-examination of the witness was concerned. Now, if Mr. Clardy is going to ask questions of the witness on further direct, or redirect, or whatever it is, I am going to have to start in with my cross-examination all over again.

Mr. DES ROCHES. I do not see any particular force to Mr. Yockey's objection here, your Honor. After all, Mr. Clardy and I are representing different clients here, and I am not bound by any questions that Mr. Clardy may ask, and neither is Mr. Clardy bound by any questions that I may ask.

Mr. BARKELL. Let us not spend any further time arguing, gentlemen. Are there any further questions of the witness?

Mr. HARRY YOCKEY. I have nothing further.

Mr. CLARDY. All right. That is all.

Mr. BARKELL. You are excused.

(Witness excused.)

Mr. BARKELL. Call your next witness, please.

Mr. CLARDY. Mr. Linder, take the stand.

D. E. LINDER was sworn and testified as follows:

Direct examination by Mr. CLARDY:

Q. Witness, identify yourself.

A. D. E. Linder.

Q. Where do you reside?

A. Traverse City, Michigan.

Q. By whom are you employed?

851 A. Myself.

Q. What is the nature of your business?

A. Well, we handle tires and tubes, and allied products—repair products.

Q. Your company has been engaged in that line of business at Traverse City for how long?

A. Three years.

Q. In carrying on your business, do you have occasion to both ship and receive merchandise, or supplies of some sort or another, both in interstate commerce and intrastate commerce?

A. Yes.

Q. With respect to the interstate end of your business, would you tell us from what points, particularly, you receive freight, and to what points you ship?

A. Oh, we get in about 90 percent of our stuff. I would say, from Akron, Ohio; and the balance would be divided between Toledo, Ohio, Chicago, and Waukesha, Wisconsin.

Q. How has that movement been handled in the past?

A. (No answer.)



Q. That is, with respect to the form of transportation?

A. Almost 100 percent truck.

Q. Has the service been speedy and satisfactory?

A. Yes.

Q. Has it completely met the needs of your company?

A. Yes.

852 Q. Now, you have been present during the hearing here today, I take it; have you not?

A. Yes.

Q. And you have heard at least some of the testimony that has been elicited on cross-examination by Mr. Yockey here, with regard to whether or not the business of particular witnesses would be benefitted if the railroad, The Pennsylvania Railroad, were to speed up its part of the operation by some 24 to 48 hours.

A. Yes.

Q. As they argue might be done here.

A. Yes; I think I heard most of it.

Q. Well, now, assuming that the improvement, that they claim, would take place, does actually take place. Would you tell me whether or not that would be of any particular use or benefit to you, having in mind the existence of the present motor carrier service which you are using?

A. A reduction of 48 hours of the eight or nine days' time, which it has taken to get freight from Akron, Ohio, to Traverse City, Michigan, would not materially help us in any way at all, I would say; no, sir.

Q. So that even if they did that, then, would you be inclined to favor this new service which is proposed to be inaugurated by the railroad?

A. No.

Q. Now, has the war had any effect upon your business?

853 A. Yes.

Q. Would you tell us what that effect has been?

A. It has practically put us out of business, as far as the new time business is concerned. However, we still do a considerable amount of repairing, retreading, recapping, and so forth, and the general servicing of the tires of customers.

Q. That is in a limited measure, however, I take it?

A. Yes.

Q. Because of the necessity for special preference orders—priorities?

A. Yes, sir. However, we do cover 11 counties, I might say, with this service.

Q. Is it fair to say, then, Witness, that the war, and the attendant orders of various governmental agencies that have resulted

therefrom, have materially decreased your need for transportation?

A. Decidedly so; yes.

Q. And so far as the foreseeable future is concerned, is there any hope, or any belief on your part, that there will be any increase in your need for transportation?

A. No, sir, not as far as the immediate future is concerned; and I should say not for at least three years.

Q. What particular carrier, or carriers, have been serving you in this in-bound movement that you have discussed?

A. Oh, Parker Motor Freight, for one; also Dallas L. 854 Darling; and the Wolverine Express.

Q. Has the service which has been rendered you by those carriers been uniformly good and satisfactory?

A. Over a long period; yes.

Q. Do you have any out-bound movement?

A. Yes.

Q. Consisting of what?

A. Oh, our out-bound shipments consist of tires that have been repaired, and new tires that go to the various commercial users, moving out to points in the 11 counties that we serve.

Q. That would be entirely intrastate, then, would it not?

A. (No answer.)

By Mr. BARKELL:

Q. That is all intrastate, is it not?

A. Yes.

Mr. BARKELL. We are not interested in any intrastate movements in this proceeding, so just omit that.

By Mr. CLARDY:

Q. Do you ship anything interstate?

A. Oh, there would be a little something; yes, sir; but hardly enough to mention, I would say.

Q. By the way, referring further to your in-bound movements: have they been truckload, less-than-truckload, or both?

A. Why, over the period of 12 months, I would say, we have had probably just one straight load.

Q. One truckload?

A. Yes, sir.

855 Q. And everything else has been less-than-truckload?

A. Right.

Q. Now, Witness, you mentioned, I believe, some eight or nine days, or something of that sort, referring to the rail time.

A. Yes, sir.

Q. Is that about the average time that you can expect a rail movement to take from such a point as Akron, Ohio?

A. That has been the experience that we had; yes, sir. At the time that there was a drivers' strike in Akron, we did receive several shipments over the rails, and at that time it took eight or nine days.

Q. And how long does it take by motortruck?

A. A night and a day.

Q. Pardon me?

A. I say, a night and a day.

Q. About 24 hours, do you mean?

A. Well, it would be about that—well, to be conservative, I would say about 48 hours; but 48 hours would be the outside. We have had shipments come in in a shorter time than that, but 48 hours would generally cover it, all right.

By Mr. EGGERS:

Q. That would be second-morning?

A. Yes.

Q. Second-morning delivery?

A. Yes, sir.

By Mr. CLARDY:

526 Q. Well, now, Witness, if a schedule were to be inaugurated by the railroad that involved a movement getting into your town at something like 8 o'clock p.m., according to their exhibit 4, applicant's exhibit 4 here: would that be materially different from the hour at which the present motor carrier service arrives at your place?

A. 8 p.m.

Q. Yes.

A. We are closed at 8 p.m. With the problems that we have confronting us at the present time, if we order tires, we will say, from Akron, it is generally because we have already gone to the trouble of getting a permit; and somebody has a very definite need for those tires, and therefore, consequently, we are very anxious to get them out just soon as they come in, and as a result of that we are at the dock waiting to pick up our own freight when it comes in; although that is not necessary, just so that we will be able to service the customer at the very earliest possible moment.

Q. Did I correctly understand you to say, Witness, in a previous answer, that most of your movements get into Traverse City early in the morning sometime?

A. Yes, sir—or that is, during the morning sometime; never later than two o'clock, anyway.

Q. What was that last?

A. We have never had anything come in any later than two o'clock.

Q. In the afternoon?

857. A. Yes.

Mr. CLARDY. That is all.

Mr. BARKELL. Cross-examine.

Cross-examination by Mr. HARRY YOCKEY:

Q. Mr. Witness, those shipments that you referred to, that you said took six to eight days to get from Akron, Ohio, to your place at Traverse City; were those shipments of tires?

A. Yes.

Q. And that was at a time when there was a strike on by the truck drivers in Akron, did you say?

A. Yes.

Q. How long did that strike last?

A. I couldn't say.

Q. Did you yourself make any particular investigation to ascertain as to why that delay came about?

A. No.

Q. That is, to find out as to whether or not it had occurred because of the strike of the truck drivers, with a resulting delay in platform service and delivery, or just what it was that had caused the delay?

A. No, sir.

Q. You do not know, then, how long those shipments, or any of them, were held up at Akron, do you?

A. No.

858. Q. That is, before leaving Akron?

A. No.

Q. Or how long they were in transit?

A. I can't give you the definite number of days, but I did talk with the shipping department of the General Tire & Rubber Company over the long-distance telephone, and I found out that they had been shipped, as I recall it now, five days before I placed the call; and then we had to wait four more days, as I recall it, before we finally received the merchandise.

Q. That particular merchandise normally, as I understand it, would have come by truck; is that correct?

A. Yes.

Q. How long did that strike last?

A. I couldn't say.

Q. Pardon me?

A. I don't know.

Q. Well, now, then, have you had any other experience, other than that one which you have just mentioned?

A. Well, I believe we had three shipments during that time.

Q. Three shipments?

A. Yes.

Q. How long did they take?

A. Well, as I stated before, it ran from eight to nine days. However, when we found that we were having trouble with our Akron warehouse, we did business in Cleveland, and—

859 Q. Well, now then—

Mr. CLARDY. Just a moment.

Mr. EGGERS. Let the witness complete his answer, please. Mr. Yockey.

Mr. HARRY YOCKEY. I am sorry. I thought he was through. Finish your answer.

A. I was just going to say, then it came through in the normal way, as the result of our getting it from Cleveland, rather than from Akron.

By Mr. HARRY YOCKEY:

Q. And it came by truck?

A. Yes.

Q. Is that right?

A. Yes.

Q. Well, now then, is that the only experience that you have had, that you have told us about, now, with respect to the length of time involved in the movement of shipments out of Akron by rail?

A. That is all the experience that we have had out of Akron by rail; yes, sir. However, I might say, we had a similar experience at Waukesha, Wisconsin.

Q. Was there a strike going on there also?

A. No.

Q. Of drivers?

A. No.

Q. What was the difficulty there?

860 A. The merchandise was shipped by rail.

Q. Was that a less than carload shipment?

A. Yes.

Q. All right. Now, will you just tell us what your experience was in connection with that particular shipment?

A. Do you mean, as to the time?

Q. Yes, sir.

A. Why, if I recall it correctly, I think it took approximately seven days for that shipment to arrive.

Q. What did that shipment consist of?

A. Why, that particular shipment consisted of twelve jacks—hydraulic jacks.

Q. Well, now then, did the element of time have anything to do with that shipment?



A. Yes, sir, it did; because it so happened that that occurred at a particular time when we were very, very anxious to service snow plows, due to the unusual snow conditions that were prevailing in the northern part of Michigan.

Q. It did make some difference to you, then, did it, as to whether those jacks got in, so that you could service the snow plows, in one, two, three, four, five, six, or seven days?

A. Yes, sir.

Q. Any kind of saving on those particular shipments, then, that could have been made, would have been a benefit to you, would it not?

861 A. Yes.

Q. Well, then, if the railroad, under the set-up that is proposed here, had been able, even though that particular shipment was delayed, to cut off one or two days of the time involved, that would have been of benefit to you, would it not?

A. Why, in a sense, yes.

Mr. EGGERS. What is that answer?

(Answer read.)

By Mr. HARRY YOCKEY:

Q. Well, it would have been a benefit, would it not?

A. Yes.

Q. Any saving in the movement of a shipment of that sort would be of benefit to your company, would it not?

A. If a statement is in order—

Q. No.

Mr. BARRELL. Just answer the question.

Mr. HARRY YOCKEY. Answer the question.

A. If it could have been done in that case, if there had been a saving, it would have been, yes, sir.

By Mr. HARRY YOCKEY:

Q. It would have been?

A. Yes, sir.

Q. And if like instances to that arose, whereby you could receive shipments of that type, under those circumstances, that would be of benefit to you in your business, would it not?

A. I don't get that.

862 Q. That is, I mean to say, if the railroad company can cut off from 24 to 48 hours of time, running time.

A. If that was possible, if the railroad was able to compete with the running time of the truck, yes, sir.

Q. Well, now, Witness, I did not ask you anything about that. Please do not volunteer anything. Just answer the question. I am just asking you if less than carload shipments over the rail-

road can get from their point of origin to your town in from 24 to 48 hours less, under like circumstances, that would be of benefit to your company, under like circumstances, or under any circumstances, would it not?

A. (No answer.)

Q. I am not referring to the truck lines at all, now, Witness. I am just referring to the railroad.

A. Will you say that once more.

Mr. EGGERS. Read the question.

Mr. HARRY YOCKEY. Let me repeat it.

By Mr. HARRY YOCKEY:

Q. If, under circumstances such as you have described in your previous answer, the railroad can cut off from 24 to 48 hours of its running time, in the handling of shipments, that would be of benefit to your business, would it not?

A. Well, now, maybe I can answer the question this way, if I get it right; we don't order twelve jacks very often, you understand—

863 Q. I am not asking you anything about that at all, Mr. Witness.

Mr. BARKELL. Answer the question.

By Mr. HARRY YOCKEY:

Q. I say, if you do do that again.

A. Oh. Yes.

Q. All right. Now, other than that, have you ordered—or do you order any less than carload shipments in interstate by rail?

A. No.

Q. That moves by truck entirely?

A. Yes.

Q. Why is that?

A. Because we get better service.

Q. In time?

A. Yes; very definitely.

Q. You are able to save how much more time as a rule by truck than you are by rail, let us say, from Fort Wayne, Indiana?

A. How much more by truck than by rail?

Q. Yes; from Fort Wayne.

A. Well, now, I wouldn't be very familiar with Fort Wayne. If I might answer that by referring to Akron, however, I would say seven days.

Q. I am talking about Fort Wayne, now, Mr. Witness. You have already told me about Akron.

A. I do not have anything from there.

864 Q. You do not have any shipments from there?

A. No.

Q. Do you have anything from Chicago?

A. No.

Q. You do not get any shipments at all from Chicago?

A. Not in any quantity.

Q. You have understood, have you not, Mr. Witness, that all of these questions have related to interstate less than carload shipments.

A. Yes.

Mr. HARRY YOCKEY. That is all.

Mr. BARKELL. Mr. Clardy?

Redirect examination by Mr. CLARDY:

Q. Witness, as I understand it, you did not have anything to do with the routing of that particular shipment of jacks, that you referred to; is that correct?

A. Well, we asked for truck service on that particular shipment, because we wanted to get them within two or three days, or seven sooner than that, if possible; but through some error or other, why, our request was ignored.

Q. Now, just a moment ago you were right in the middle of an answer, and you were cut off. You had started to say, "If a statement is in order," and you were interrupted. What did you mean by that? What did you have in mind to say?

A. I was just going to add at that particular point that  
865 we would not have ordered those jacks to be shipped by rail in the first place.

Q. Why not?

A. Because we asked for truck service.

Q. Why?

A. Because time was very definitely an element, or a factor, that we were interested in at that particular time.

Q. Well, then, if The Pennsylvania Railroad should get this application granted, and should succeed in saving from 24 to 48 hours times on movements generally into your town, what would be your position with reference to whether or not that would be of any advantage to you in your business; having in mind the existence of the present truck service which you are using at this time?

A. Why, based on our experience of eight or nine days from Akron, that I told you about before, a saving of 24 hours, or even of 48 hours, wouldn't make any difference to us.

Q. I take it, then, that even if the application were granted, you would continue to use the truck service, would you?

A. Yes.

Mr. CLARDY. Thank you.

Mr. BARKELL. Are there any further questions?

Mr. HARRY YOCKEY. That is all.

Mr. BARKELL. If there are no further questions, the witness is excused.

866 (Witness excused.)

Mr. BARKELL. Call your next.

Mr. CLARDY. Mr. Adams.

Mr. BARKELL. May I inquire, Mr. Clardy, are your questions going to be the same, or substantially the same, of all of these other witnesses? Your questions to the last few witnesses, whom you have put on, have all been along pretty much the same line. What I have in mind is this: I am just wondering whether or not you gentlemen might be able to stipulate some of this testimony. The direct examination and cross-examination have been almost exactly the same with practically all of these witnesses, as far as we have been able to see.

Mr. CLARDY. Well, in their essentials, your Honor, I think that is very probably true, although there has been some little difference in the particular problems involved at some of the towns.

Mr. HARRY YOCKEY. I will say, if the Board please, as far as we are concerned, we are perfectly willing to stipulate, if the proper kind of stipulation can be entered into, because we did that on our side of the case at Indianapolis before, you will recall.

Mr. BARKELL. Do you not think, Mr. Yockey, that you could stipulate your cross-examination of all of these witnesses?

Mr. HARRY YOCKEY. Well, of course, as I say, your Honor, if the proper sort of stipulation can be made in that sort of  
867 a situation—

Mr. CLARDY. Your Honor, let me talk with associate counsel here for just a moment.

Mr. BARKELL. Suppose we take a short recess at this time to give you an opportunity to see what you can arrive at, if anything.

Mr. CLARDY. All right.

(A recess was taken.)

Mr. BARKELL. Come to order, please, gentlemen. Have you anything to report, Mr. Clardy?

Mr. CLARDY. Your Honor, we have had a little, informal discussion here between counsel during the recess, and it has been suggested by Mr. Yockey that we go ahead at this time with the three additional witnesses whom we have here, and then discuss the matter of a possible stipulation with respect to the testimony of the balance of the witnesses whom we have scheduled and expect to produce here during the succeeding two days that have been assigned for this hearing.

Mr. BARKELL. How many witnesses do you have present here right now?

Mr. CLARDY. There are three shipper witnesses, and when we run out of shipper testimony, we have plenty of other testimony to occupy the balance of the time today, and tomorrow also, for that matter.

Mr. BARKELL. Well, now, Mr. Clardy, I am not sure that  
868 I understand from your statement just what the situation is.

Mr. CLARDY. The situation is simply this your Honor: that we would like to proceed with the three remaining shipper witnesses whom we have here at this time, and then discuss the matter of a possible stipulation.

Mr. BARKELL. In other words, you are not stipulating as to the testimony of these three remaining shipper witnesses?

Mr. CLARDY. No.

Mr. HARRY YOCKEY. If the Joint Board please, may I say in fairness to Mr. Clardy, that he and I discussed the matter of a stipulation, and we agreed that it would take a considerable amount of time right now to try to formulate such a stipulation, whereas we can work it out, I think, much more easily after this session is over today. The protestants, as I understand it, still have a large number of other witnesses who are coming in tomorrow, and perhaps the next day also; and I will be glad to work this evening with Mr. Clardy on a stipulation that will cover the testimony of all of those other witnesses, or as many of them as possible. I think by doing it that way, rather than attempting to do it at this time, we will be better able to work out a stipulation that will really be of some value here.

Mr. BARKELL. All right.

Mr. HARRY YOCKEY. That is what Mr. Clardy has in mind.

Mr. CLARDY. Yes.

869 Mr. BARKELL. All right, then, Mr. Clardy. Go ahead and call your next witness.

Mr. CLARDY. Mr. EVANS.

Mr. BARKELL. Adams or Evans?

Mr. CLARDY. This is Mr. Evans.

WILLIAM B. EVANS was sworn and testified as follows:

Direct examination by Mr. CLARDY:

Q. Witness, identify yourself.

A. William B. Evans.

Q. Where do you live?

A. Petoskey, Michigan.

Q. What is your business?

A. Northern Auto Company; Ford distributors.



By Mr. EGGERS:

Q. What town?

A. Petoskey.

By Mr. CLARDY:

Q. Your company, as its name signifies, is engaged in the automobile business, is it?

A. Yes, sir.

Q. Or perhaps I should put that in the past tense, because the war has had some effect on your business, has it not?

A. Yes.

Q. Your business at the present time is confined practically altogether to second-hand cars, is it not?

A. And parts and service.

870 Q. Is your need for transportation service, therefore, only a fraction of what it was before the outbreak of the war?

A. It is less; yes.

Q. Now, do you ship and receive merchandise—or have you shipped and received merchandise from points outside the state of Michigan?

A. Yes, sir.

Q. Particularly to and from what points?

A. The Firestone Tire & Rubber Company, Akron and Chicago.

Q. In the movement of your shipments in the past, have you had occasion to use the service both of the rail carriers and the motor carriers?

A. No, sir. We specify motor truck.

Q. You specify motor truck service?

A. Yes, sir.

Q. That is for what particular reason?

A. Service.

Q. Well, now, you have used the cryptic word "service." Will you elaborate on that just a little bit, as to what you mean.

A. Well, what I mean by that is this, that we get better service—we get a quicker service, and we get the material faster.

Q. Now, your company operates at other points besides Petoskey, does it not?

A. Yes.

Q. About how many points in all?

871 A. Well—

Mr. BARKELL. Let us confine it to the points involved in this application, Mr. Clardy.

Mr. CLARDY. That is right, your Honor, but I want to first find out if there are any other points, and how many of them.

A. There are six places.

By Mr. HARRY YOCKEY:

Q. What was that answer?

A. I say, we have six places in northern Michigan.

By Mr. CLARDY:

Q. Where?

A. Cheboygan, Rogers City, Gaylord, Boyne City, Charlevoix, and Petoskey.

Q. Are the movements to and from those points that you have just named, as far as interstate commerce is concerned, to or from the same points as are involved in movements to and from Petoskey?

A. (No answer.)

Q. Do you understand the question?

A. Yes, sir; but to a lesser extent.

Q. Do you mean by that, that Petoskey is the biggest place?

A. Yes.

Q. Have you had any occasion to use any rail service in the movement of less than carload shipments from Akron, Ohio?

A. No.

Q. Have you ever used it from Chicago?

A. No.

Q. What motor carrier or motor carriers are serving you  
872 in your operations at the present time?

A. Parker Motor Freight.

Q. Has that service been fast, expeditious?

A. Yes, sir.

Q. Has it met all of the needs of your company up to the present time?

A. Yes, sir.

Q. Now, if the railroad company should, in some manner or other, succeed in speeding up its service by from 24 to 48 hours, would that, then, be of any particular advantage to your company?

A. No, sir; I wouldn't say that it would.

Q. Do you ship anything in interstate commerce?

A. Well, just tires to Akron, Ohio—to and from Akron, that is, and material from Chicago; the Chicago Auto Supply. That is all.

Q. Now, in your movements to and from Akron, what is the time involved by truck delivery?

A. About two days.

Q. You were present here a while ago, and heard the testimony of Mr. Linder in that connection, did you not?

A. Yes, sir. It would be about the same.

Mr. CLARDY. That is all.

Mr. BARKELL. Cross-examine.

Cross-examination by Mr. HARRY YOCKEY:

873 Q. What do you mean by that statement, Mr. Witness?

A. Which?

Q. "About the same."

A. About the same as what Mr. Linder said.

Q. Well—

A. I was sitting back there, and I heard his testimony, and he said about 48 hours; so I say, that is about right. It is about 48 hours from Akron.

Q. What do you mean by "about 48 hours"?

A. I mean by that, that material that is shipped out of Akron, such as tires, and so forth, would reach us in about 48 hours—or in about two days.

Q. Is that what you meant by your last answer?

A. How?

Q. Is that what you meant by your answer to the last question that Mr. Clardy asked you?

A. Yes.

Q. Well, now then, are you using The Pennsylvania Railroad at the present time for the movement of any interstate shipments?

A. No.

Q. That is, less than carload shipments.

A. No.

Q. How long has it been since you have used The Pennsylvania Railroad to move an interstate less-than-carload shipment?

A. Oh, I don't remember when we did.

871 Q. Well, now, can you just give the Joint Board some idea as to whether it was one year—

A. No.

Q. Or two years—

A. No.

Q. Or five years?

A. I don't remember that we have had anything over The Pennsylvania Railroad.

Q. You do not recall anything at all?

A. Right.

Q. And you are not sending anything that way now?

A. No.

Q. So that even if the service were speeded up, you would not use it at all; is that right?

A. No.

Q. Do you mean, that is not right—

A. I mean, that is right.

Q. You would not use it anyhow?

A. No.

Mr. HARRY YOCKEY. That is all.

Mr. LINDSTRAND. I have just one question, if the Board, please.

By Mr. LINDSTRAND:

Q. Mr. Witness, of the six points that you named here a moment ago, Petoskey is the only place which is served by The Pennsylvania Railroad, is it not?

875 A. Yes.

Mr. LINDSTRAND. That is all.

Mr. BARKELL. Are there any further questions of the witness?

Mr. CLARDY. Nothing.

Mr. BARKELL. That is all, Mr. Witness. Thank you.

The WITNESS. Thank you.

(Witness excused.)

Mr. BARKELL. Call your next.

Mr. CLARDY. Mr. Smith.

OTIS F. SMITH was sworn and testified as follows:

Direct examination by Mr. CLARDY:

Q. State your name, Witness.

A. Otis F. Smith.

Q. Where do you live?

A. Mackinaw City, Michigan.

Q. What is your business?

A. Hardware and dime store.

Mr. BARKELL. We could not hear.

By Mr. EGGERS:

Q. How is that again?

A. Hardware and dime store—or rather, hardware and dollar store, I guess I had better describe it as.

By Mr. HARRY YOCKEY:

Q. Dime store?

A. Dime and dollar store.

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By Mr. CLARDY:

Q. Does your business require the use of any transportation service from or to points outside the state of Michigan?

A. Well, yes, sir; it does. We receive goods out of Cleveland and Toledo, Ohio, and Chicago, Illinois, and from points further south, of course, also.

Q. Do you use both rail and truck service in the operation of your business?

A. Yes.

Q. Do your movements consist primarily and principally of less than truckload quantities?

A. It is all less than carload.

Q. All less than carload.

A. Yes.

Q. About how frequent an in-bound movement do you have?

A. Everyday.

Q. In the operation of your business, what carrier, or what carriers, do you normally use?

A. Mulvena and Parker Motor Freight.

Q. Referring to your movements from Chicago first; am I correct that Parker Motor Freight handles those?

A. Yes.

Q. And in the case of movements from points to the east of Chicago, normally Mulvena handles those; is that correct?

A. The Toledo shipments come over the rail.

877

By Mr. EGGERS:

Q. How is that again?

A. The shipments from Toledo come rail.

By Mr. CLARDY:

Q. What railroad?

A. M. C.

By Mr. EGGERS:

Q. What?

A. M. C.—Michigan Central. That is, the New York Central Railroad.

By Mr. CLARDY:

Q. Yes.

A. And the Cleveland shipments come Mulvena.

Q. Very well. Now, Witness, has the service that you have been receiving from those two truck lines been adequate and satisfactory to meet your needs?

A. It has been very satisfactory; yes.

Q. In the case of movements from Chicago, for example, about what time is normally consumed in getting those shipments in?

A. Oh, about four days.

Q. Four days?

A. Or five days.

Mr. HARRY YOCKEY. From where?

A. From Chicago, you said, didn't you?



By Mr. CLARDY:

Q. From Chicago.

A. Yes. And the same—or about the same, from Cleveland. It takes about six days from Cleveland.

Q. Are you speaking now of rail, or truck, or both?

A. Truck.

Q. By truck.

878 A. Yes.

Q. Have you ever had occasion to move anything by rail from either of those points?

A. Yes.

Q. How long did it take?

A. On the average, about 10 days.

Q. 10 days would be the average?

A. Yes, sir.

Q. Have you ever shipped anything the other way?

A. The other way?

Q. Yes; to those points?

A. No, sir; I never have. You see, in our business we don't do any shipping out. All that we do is to receive. We have got three railroads there, and three truck lines also.

Q. Then, if it takes 10 days to get a shipment in by rail at the present time, if they should speed up their service as much as 24 to 48 hours, would that be of any material advantage to you?

A. No, sir; it wouldn't be, because they would still be away behind the eight ball, even then, as far as service is concerned.

Q. If they speeded the service up the maximum of 48 hours, which they claim, do I understand that you would still—

A. Use the trucks.

Q. You would continue to use the trucks?

879 A. I would still use the truck service; yes, sir, because, as I say, they would still be behind the eight ball, as far as service is concerned; as far as we are concerned up there.

Q. By the way, Witness, how big a town is Mackinaw City?

A. About 1,000.

Q. How much?

A. About 1,000.

Q. Its principal business is as a resort town, is it not?

A. Yes.

Q. And as one of the termini of the ferry?

A. Yes. That is all resort territory up in there.

Q. Has the outbreak of the war had any effect upon your business up there so far this year?

A. On the hardware business?

Q. Well, referring to that.

A. I should rather say that it has; yes, sir. I could use a whole lot of saws up there, for example, right now.

Q. At the present time about what percentage is your business for this year running below your business last year, say?

A. About 50.

Q. About 50 percent?

A. Yes, sir.

Q. Has that situation had a corresponding effect upon your need for transportation?

A. Oh, yes; a whole lot.

Q. If the application here should be granted, and the applicant were permitted to inaugurate or start this operation, am I correct in understanding that you still would not make any more use of the rail service than you are making at the present time?

A. Yes, sir; that is correct; figuring the service that we are getting right now. The truck service has been satisfactory, and just cutting down the time 48 hours would be no advantage to us in our particular situation up there where we are; because the way it is right at the present time, the trucking service can beat the railroad service by more than 48 hours from Chicago, or Cleveland, or Toledo; either one.

MR. CLARDY. That is all.

MR. BARKELL. Cross-examine.

Cross-examination by Mr. HARRY YOCKEY:

Q. Mr. Witness, did I correctly understand you to say that in the movement of your interstate less than carload shipments you are using both rail and truck service at the present time?

A. Yes.

Q. Do you use The Pennsylvania Railroad?

A. We don't use The Pennsylvania Railroad; no, sir; because the only stuff that we get by rail comes out of Toledo, Ohio.

Q. How do you get that?

A. M. C.

Q. How?

A. Michigan Central.

Q. How long has it been since you have used The Pennsylvania Railroad, on an incoming shipment?

A. Oh, well, about—well, we do get some Pennsylvania Railroad freight from down below those points that I named, down in Virginia, and stuff like that.

MR. EGGERS. Will you read that last answer, please, Mr. Reporter?

(Answer read.)

By Mr. HARRY YOCKEY:

Q. Is that less than carload freight?

A. Yes.

Q. All less than carload?

A. Yes.

Q. How frequently do you get those shipments?

A. Well, ordinarily we get in about three of them in the spring. I would say, and that takes care of us during the entire period of the year.

Q. How long does it take for those shipments to get to you?

A. About three weeks.

Q. About three weeks?

A. Yes.

Q. Well, now, as to the service which you are getting by truck at this particular time—I understand you to say that you get some freight from Toledo by truck.

A. By rail.

Q. And that takes from 4 to 6 days for those shipments  
882 to get to you at Mackinaw City; is that right?

A. 10 days from Toledo by rail.

Q. I am talking about—

A. By truck?

Q. That is, by the Michigan Central Railroad.

A. Yes.

Q. But I am talking about the shipments that you have coming in by truck from Toledo.

A. Oh.

Q. How long does that take?

A. Four to six days.

Q. Four to six days?

A. Yes.

Q. From each of the points you named?

A. Yes.

Q. Well, then, if that service were to be speeded up from 24 to 48 hours, that would be of benefit to you in your business, would it not?

A. I couldn't see why it would.

Q. Well, would it not benefit you—

A. It wouldn't benefit us one bit, as far as transportation service is concerned; it wouldn't help us one single bit.

Q. In other words, then, you would not be interested in the speeding up of this service from 24 to 48 hours by truck or rail; is that correct?

883 A. Why, yes, sir; certainly I would be interested, but it is already speeded up by truck.

Q. Well, now, let me understand you correctly, Mr. Witness. Are you, or are you not, interested in a speeding up of your rail service by from 24 to 48 hours, if it could be done?

A. No.

Q. You would not be?

A. No, sir; I wouldn't be, because I am very well satisfied with the truck service that I am getting, as it is, right now.

Q. And you would not want it improved in any way, then, either by rail or by truck?

A. No, sir; because, as I have told you several times, now, I am very well satisfied with the service that I am getting by truck right at this present time.

Q. That is your answer, is it?

A. That is what it is; yes, sir.

MR. HARRY YOCKEY. That is all.

MR. BARKELL. Is that all?

MR. CLARDY. I should have asked him just one other question, your Honor.

MR. BARKELL. All right.

MR. CLARDY. Just a moment, please, Mr. Smith. I just want to ask you one more question.

MR. HARRY YOCKEY. Well, now——

By MR. CLARDY:

884 Q. Witness, you are familiar with the other shippers in your city, are you not?

MR. HARRY YOCKEY. Just a moment.

MR. BARKELL. I thought the witness was excused.

MR. CLARDY. I have another question that I would like to ask him, your Honor, that I have overlooked.

MR. BARKELL. Ask the next witness.

MR. CLARDY. No; I want to ask it of this witness, because he is the big shipper in his town, and I just want to develop that fact.

MR. HARRY YOCKEY. Let him get back to the stand, then.

MR. BARKELL. Yes.

MR. EGGERS. I suppose technically he is on the witness stand until he gets out of sight of the lawyers.

MR. HARRY YOCKEY. Well, we will not be technical about it.

MR. CLARDY. This did not occur to me until after he had left the witness stand.

MR. BARKELL. All right.

Redirect examination by MR. CLARDY:

Witness, you are familiar with the other shippers in your town of Mackinaw City, are you not?

A. No.

Q. Pardon me?

A. There aren't any shippers up there. We are all receivers of freight up in our town.

885 Q. I should have said, the other receivers.

A. Yes, sir.

Q. What would you say, as to how the volume of shipments which you receive, compares with the volume of shipments received by any of the other receivers of freight up there—

Mr. HARRY YOCKEY. Just a moment.

By Mr. CLARDY:

Q. In your community?

Mr. HARRY YOCKEY. I object.

A. Well—

Mr. HARRY YOCKEY. Wait.

Mr. BARKELL. Just a moment.

Mr. HARRY YOCKEY. I object to the question, if the Board please. This witness is not qualified to be testifying about the business that the other receivers of freight up there do.

Mr. BARKELL. Objection sustained.

Mr. CLARDY. Oh, your Honor—

Mr. BARKELL. No; this witness may speak for himself, but I do not know how he is going to be able to speak for the other shippers—or rather, the other receivers of freight up there, unless you are able to qualify him further than you have up to the present time. As yet you have not qualified him at all to testify along that line.

Mr. CLARDY. All right.

By Mr. CLARDY:

Q. Witness, about what volume of in-bound shipments do you receive on the average over the period of a week,  
886 a month, or a year? Supposing you give it to us, if you can, over the period of one year.

A. Well, now, I don't know if I get you there. Just what do you mean by that; in tonnage, the tonnage that I receive, or what?

Q. Yes; with respect to tonnage.

A. What percent, did you say—

Q. No; not what percent. Witness, but just what your total tonnage is over the period of a year.

A. Oh, the total?

Q. Yes.

A. Why, I would say, probably 12 carloads per year.

Q. How much?

A. 12 carloads.



By Mr. HARRY YOCKEY:

Q. Per year?

A. Yes, sir; in a normal year.

By Mr. EGGERS:

Q. What was that last?

A. In a normal year.

By Mr. BARKELL:

Q. What do you consider a carload?

A. Oh, that would be around 30,000 to 40,000 pounds to the car.

By Mr. CLARDY:

Q. You said, 12 carloads?

A. Yes.

Q. With about how much to the car?

A. 40,000 pounds.

Q. Now, Witness, is there any other shipper in your community—

887 A. Not shipper; you mean receiver.

Q. Thank you. Is there any other receiver of freight in your community that receives that much merchandise over the same period of time—

Mr. HARRY YOCKEY. Just a moment.

By Mr. CLARDY:

Q. To your knowledge?

Mr. HARRY YOCKEY. Now, just a moment. Counsel is getting into a comparison, now, and I object to it; the same objection.

Mr. BARKELL. How would he know?

Mr. CLARDY. I have merely asked him if to his knowledge there is any such. I certainly am entitled to find out if he knows whether or not there is any such.

Mr. HARRY YOCKEY. This witness, if the Board please, is certainly not qualified, as far as this record is concerned up to the present moment to state how many shipments of freight other receivers of freight in his town get, or where they come from, or how frequently they get them, or anything of that sort. This witness is not qualified to testify to anything of that kind.

Mr. CLARDY. The witness may certainly answer, if he knows.

Mr. BARKELL. What is the question again?

By Mr. CLARDY:

Q. My question is simply this, your Honor: do you know of any other shipper—

Mr. BARKELL. Receiver, do you mean?

By Mr. CLARDY:

Q. Any receiver of freight in your community that receives that amount of merchandise, that the witness has  
888 just stated, in the period of one year.

Mr. BARKELL. Interstate..

Mr. CLARDY. Interstate or intrastate.

Mr. BARKELL. Oh, no.

Mr. CLARDY. Then I will qualify it later.

Mr. BARKELL. We are not interested in the intrastate. Confine it to the interstate.

Mr. CLARDY. I appreciate that, your Honor, but I first want to get from him the total tonnage, and then I will ask him further with respect to that.

Mr. BARKELL. We are only interested, Mr. Clardy, in the interstate part of it.

Mr. CLARDY. All right.

Mr. BARKELL. You may ask him that question.

Mr. CLARDY. I will ask him that.

By Mr. CLARDY:

Q. Is there any other shipper of freight—or, rather, is there any other receiver of freight in your town, Witness, that receives as much freight as you have indicated you receive?

Mr. BARKELL. Well, now, just a moment, Mr. Clardy: You are asking him a different question, now. You are asking him if he knows of any other receiver in his town.

Mr. CLARDY. You are right.

By Mr. CLARDY:

Q. Is there any other receiver of freight that you know of,  
889 Witness, in your town, that receives that much merchandise per year in interstate commerce?

A. (Shaking head "No.")

Mr. BARKELL. Speak up.

Mr. EGGERS. That does not go into the record, when you move your head.

By Mr. CLARDY:

Q. Is your answer "No"?

A. "No."

Q. Do you know of any other shipper—or any other receiver of freight in your community who receives as much as a quarter of that amount in interstate commerce—

Mr. HARRY YOCKEY. Just a moment.

By Mr. CLARDY:

Q. During the period of a year?

Mr. HARRY YOCKEY. Now, just a moment. I want to renew my objection, if the Joint Board please. We are getting into something now concerning which this witness has not been qualified to testify at all. This testimony can have no probative value whatsoever. This man is not qualified to testify, and go into a negative proposition here, that counsel is now trying to get him to testify to. I submit that this line of examination is highly improper. This record here is just being cluttered up with something that is of utterly no probative value.

Mr. CLARDY. May I be heard, your Honor?

Mr. BARKELL. Yes.

Mr. CLARDY. This man lives in a town with a population of about 1,000 people. The Chairman of this Joint Board is  
890 well enough acquainted with Mackinaw City, or any other similar community, to know that any merchant in a community of that sort will know all about the amount of business that all or any of the rest of the merchants are doing, and what it consists of. The town is small enough, and the business is handled in such a way that he is qualified to testify, and I thought that I had qualified him as an expert on the subject. Counsel has objected, and I am now asking the question in this particular form: I would like to ask the witness, and I think he is qualified to answer, whether or not he does not know of his own knowledge, that there is no other shipper—or receiver of freight in his town of Mackinaw City, who receives even a fractional part of the amount of tonnage that he receives over the period of a year; and I think I have qualified him so that he can answer that question. That is the question that I would like to ask, and I have not understood your Honor, up to this point, to say that I cannot ask it. So I will ask that question, and see what happens.

Mr. HARRY YOCKEY. Well, now—

Mr. CLARDY. Just a moment.

Mr. HARRY YOCKEY. Are you through?

Mr. CLARDY. No.

Mr. HARRY YOCKEY. Well, I want to again call the Board's attention to the fact that we are just simply getting into a negative proposition here. This man is not qualified to testify  
891 along this line.

Mr. CLARDY. I am going to ask it the other way, now.

Mr. HARRY YOCKEY. It does not make any difference how you ask it. We are just wasting time here.

Mr. BARKELL. I do not think it is material, myself.

Mr. CLARDY. Oh, I think it is, your Honor—to show that the principal shipper in this town is taking a certain position with regard to the need for any additional transportation service. I think that is very important.

Mr. BARKELL. All right, you may go ahead, and I will examine the witness later on myself, if necessary, and clear it up.

By Mr. CLARDY:

Q. Witness, how many other shippers or receivers of freight are there in your town, who are receiving freight—

A. I would say—

Mr. EGGERS. Just a moment.

Mr. BARKELL. Finish the question.

Mr. EGGERS. Was the question finished?

Mr. CLARDY. Not quite.

Mr. BARKELL. Finish the question.

By Mr. CLARDY:

Q. In interstate commerce, if you know?

A. Oh, I would say, 15.

Q. A total of about 15?

A. Yes.

Q. Are you rather well acquainted with the size or volume of business that each of those 15 receivers handles?

A. Why, fairly, I would say, yes, sir. That is, I wouldn't say that I know everything about their business; but from what I can see is all. I have an idea, however.

Q. Are there—

Mr. HARRY YOCKEY. Well, now, just a moment. I object to this. This is not qualifying the witness one iota.

Mr. EGGERS. Let him continue on for a moment until we see what the next question is.

Mr. BARKELL. Yes.

By Mr. CLARDY:

Q. My question is this: are there any other businesses in your town that are receiving the same amount of merchandise that your business is receiving?

A. (Shaking head "No.")

Mr. EGGERS. Speak out.

Mr. BARKELL. Answer the question.

By Mr. CLARDY:

Q. Your answer is "No"; is it?

A. "No."

Q. Is there any other receiver of merchandise in your town who is getting in or receiving commodities of the weight and bulk that yours run?

Mr. HARRY YOCKEY. Just a moment.

A. No, sir.

Mr. HARRY YOCKEY. Just a moment, please, Mr. Witness. I move to strike out the answer, and I renew my objection to the question. This man has not yet been qualified, if the Board please, to testify regarding the other shippers or receivers of freight in Mackinaw City. Mr. Clardy is just consuming an awful lot of time here, and building up a big record, with matter that cannot possibly have any probative value, and he is going to make us take a lot of time cross-examining this witness to demonstrate most definitely that this man is not qualified to testify along this line. Now, I say again, if the Joint Board and the Commission please, why take time with this sort of thing, when the man has not been qualified?

Mr. CLARDY. I have not finished qualifying him yet.

Mr. BARKELL. Will you go back and read that last question, please, Mr. Reporter?

(Question read.)

Mr. CLARDY. I am just merely trying to find out now what knowledge the witness has as to the shipping requirements of the others in his town, before I ask him the prime question.

Mr. BARKELL. Well, to save time, if the witness knows, let him answer the question.

Mr. CLARDY. Surely.

By Mr. CLARDY:

Q. Do you have the question in mind, Witness?

A. Will you give it to me again?

Mr. CLARDY. Read it again, please.

(Question read.)

A. I would say: no.

894 Mr. EGGERS. What is the answer?

By Mr. CLARDY:

Q. "No"?

A. "No."

Q. All right. Now, with respect to the other shippers or receivers of freight in your town, are any of them receiving in interstate commerce as much as a quarter of the amount that you are presently receiving?

Mr. HARRY YOCKEY. Objection.

A. No.



Mr. HARRY YOCKEY. Just a moment, please, Witness, when I am trying to make an objection.

Mr. EGGERS. Just a moment.

Mr. HARRY YOCKEY. I move to strike out the answer, and I want to renew my objection.

Mr. BARKELL. Well—

Mr. HARRY YOCKEY. On the same grounds that I have stated before.

Mr. BARKELL. I still say that if the witness knows, he may answer the question.

Mr. CLARDY. He may not know. I do not know.

By Mr. CLARDY:

Q. What is the answer, please?

Mr. BARKELL. You may answer the question, if you can.

By Mr. CLARDY:

Q. Can you answer the question, Witness?

A. (No answer.)

Mr. CLARDY. Read it back to him, please.

895 (Question read.)

A. I don't know.

By Mr. EGGERS:

Q. What is the answer?

A. I say, I don't know. I wouldn't be able to tell you—

Q. All right.

A. How much the other fellows are getting.

Mr. BARKELL. All right.

Mr. EGGERS. I think that puts an end to it right there.

Mr. HARRY YOCKEY. I thought we would get around to that sooner or later. Now, in view of that answer, if the Board please, I move to strike out all of the testimony of the witness along this line.

Mr. CLARDY. Oh, you cannot strike it out.

Mr. HARRY YOCKEY. As to what the other shippers or receivers of freight in his town receive, and so forth, I move to strike it all out—

Mr. CLARDY. Oh, no.

Mr. HARRY YOCKEY. Because he is not qualified.

Mr. CLARDY. It has been perfectly competent up to this point. It was put in for the purpose of qualifying the witness. But since he has answered the way he has, I am through.

The WITNESS. Are you all through with me?

Mr. CLARDY. That is all.

Mr. HARRY YOCKEY. Just a moment. May I have a ruling on my motion to strike, please.

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The WITNESS. Are you done?

Mr. CLARDY. Just a moment, Witness.

Mr. HARRY YOCKEY. Just a moment.

Mr. CLARDY. I do not believe he has anything else to ask you, Witness, but just a moment.

Mr. HARRY YOCKEY. I do not know yet. I am waiting for the Joint Board to rule on my motion.

Mr. BARKELL. We will let the record speak for itself, Mr. Yockey. I think that will take care of the matter.

Mr. HARRY YOCKEY. All right.

Mr. BARKELL. Are there any further questions of the witness, then?

Mr. HARRY YOCKEY. That is all.

Mr. BARKELL. If there are no further questions, the witness is excused.

(Witness excused.)

Mr. BARKELL. Call your next.

Mr. CLARDY. Mr. Carlton.

Mr. BARKELL. By the way, Mr. Clardy; do I understand that this is your last shipper witness?

Mr. CLARDY. This is the last shipper witness we have for today; yes, your Honor.

Mr. BARKELL. All right.

GEORGE CARLTON was sworn and testified as follows:

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Direct examination by Mr. CLARDY:

Q. What is your name, Witness?

A. George Carlton.

Q. Where do you live?

A. Mackinaw City, Michigan.

Q. What is the nature of your business?

A. Meat and grocery business.

Q. You are one of the other 14 merchants in Mackinaw City, mentioned by the last witness.

A. Yes.

Q. Does your company—or do you in your business, rather, require transportation service in connection with commodities moving from outside of the state?

A. Yes.

Q. What do you receive?

A. Mostly meat.

Q. Where does it come from?

A. Chicago.

Q. Is that about the only in-bound commodity that you receive from points outside the state of Michigan?

A. Yes; I think that is about all.

Q. Do you have occasion to ship anything out, other than return movements of meat that has spoiled, or has been rejected?

A. No.

Q. Very well. Now, taking your in-bound movement:  
898 would you tell us how that is being handled at the present time?

A. Well, it comes to Petoskey, the Swift & Company meat comes to Petoskey by rail, and then it is distributed out of Petoskey by truck.

Mr. EGGERS. Just a moment.

A. (Continuing). By Parker Motor Freight truck.

Mr. EGGERS. Just a moment, Mr. Witness.

By Mr. EGGERS:

Q. What kind of meat is that; smoked or fresh?

A. Fresh meat.

Q. Fresh meat?

A. And smoked meat; both.

Q. Both fresh and smoked.

A. Yes, sir. It comes in in refrigerator cars to Petoskey.

Q. Does it all come in refrigerator cars?

A. Yes.

By Mr. CLARDY:

Q. Those shipments are what are normally termed as pool car rail shipments, are they not?

A. Yes.

Q. To Petoskey?

A. Yes, sir.

Q. And then they are fanned out by truck from there?

A. Yes.

Q. Is that the way they are handled?

A. Yes, sir.

Mr. EGGERS. All right.

899 By Mr. CLARDY:

Q. Now, Witness, how long has the service been rendered you in that fashion?

A. Oh, for five or six years, I would say.

Q. Is that traffic handled on the routing of the shipper?

A. Yes.

Q. Which, I believe you said, is Swift & Company.

A. Yes.

Q. Has there been any indication to you by Swift & Company recently that they intend to change that method of handling?

A. Well, not just recently there hasn't been anything of that sort; no, sir; but about two years ago, I would say, they were talking about putting on their own trucks.

Q. Out of where?

A. Why, that would have been out of Chicago, I presume, although I don't know. I couldn't say right now where they would have been out of.

Mr. EGGERS. Just a moment. Will you read that last answer, please, Mr. Reporter.

(Answer read.)

Mr. EGGERS. Of the record a moment.

Mr. CLARDY. Surely.

(Discussion outside the record).

Mr. BARKELL. Now back on the record.

Mr. CLARDY. Where did we leave off, please, Mr. Reporter?

(The record was read.)

900 Mr. BARKELL. Mr. Clardy, I do not believe that we are interested in an operation two years old.

Mr. CLARDY. No, your Honor. I do not intend to pursue that.

By Mr. CLARDY:

Q. Now, Witness, with respect to the service that Parker Motor Freight has been rendering you, and is rendering you at the present time: has that service been perfectly adequate and satisfactory to meet your needs?

A. Yes, sir; it has been very satisfactory.

Q. And if The Pennsylvania Railroad, the prime mover in this case, should have The Willett Company put on some kind of an operation that would handle this particular commodity of yours, so far as you are concerned, would that be of any present benefit to you in your business, as you have previously explained it in your testimony here?

A. Why, yes, sir; it would, because in the handling of fresh meat, of course, the faster you get it there, the better it is for you.

Q. All right. Now, has the company that is shipping this meat to you at the present time, Swift & Company, indicated to you that it would reroute the meat by way of The Pennsylvania Railroad, and have them handle the meat in some particular fashion that would speed it up?

A. (No answer.)

Q. Do you understand the question?

901 A. Yes.

Mr. BARKELL. You may answer that question yes or no.

A. No; it has not.

By Mr. CLARDY:

Q. Has the applicant here, or anybody connected either with the applicant, The Willett Company, or The Pennsylvania Railroad, made any suggestion to you with regard to how they propose to speed up the service?

A. No, sir; they haven't.

Q. By the way, Witness, what time is normally consumed in this movement of your meat, the way it is being handled at the present time from Chicago?

A. About 48 hours.

Q. From Chicago?

A. Yes, sir.

Q. Do you know about how much time is consumed by the truck line in handling the meat, after it reaches the points where the bulk is broken?

A. Well, that will vary, of course.

Q. Generally speaking.

A. Well, at times they will unload the meat when it gets in there in the afternoon, and if and when they do that, why, quite often we will get it within, say, three or four hours after the car has gotten into Petoskey; and then at other times they don't get it out until the next morning.

Q. Do the trains sometimes get in there during the day, 902 so that an early delivery may be effected, and at other times they get in there during the night?

A. Well, no, sir. I think that train gets in there—I think it has been getting in there in the afternoon. That train has been getting into Petoskey about three o'clock in the afternoon.

Q. That meat comes in on a wayfreight train, does it?

A. Yes, sir; that is correct. I believe that there is a refrigerator car that is pulled in on the wayfreight train, that gets in there in the afternoon.

Q. Which railroad is that?

A. That is The Pennsylvania Railroad. I am just not exactly positive about that, now, however; but I am quite sure that is what they told me.

Q. How frequently do you get this service?

A. Twice a week.

Q. That is, on regular, scheduled days, I take it?

A. Well, the way we order the meat is this: the order is put in on Friday, and we get it on Tuesday; or the order is put in on a Tuesday, and we get it on Friday.

Q. As far as you know, then, it is not being handled over the railroad on a regular freight train, is it?

A. I don't think so.



Q. But rather, on a wayfreight train.

A. I think it is a wayfreight train; yes, sir. But as I said before, I am not just positive about that.

903 Q. I see. Now, have you ever received anything else, either from Chicago, or any other point outside of the state, that was handled by rail?

A. Well, nothing that I can recall of right at the moment, no, sir; except maybe in some particular instance, but very seldom.

Q. And the same thing as to your out-state shipments?

A. How is that?

Q. I mean to say, your out-bound shipments.

A. Very seldom.

Q. There have been none of those?

A. I have shipped but very little.

Mr. CLARDY. That is all.

Mr. BARKELL. Cross-examine.

Mr. HARRY YOCKEY. No questions.

Mr. BARKELL. Just a moment, please, Mr. Witness. I want to ask you one question.

By Mr. BARKELL:

Q. How large is this volume that you get in?

A. My volume of business?

Q. Yes.

A. Well—

Q. I mean in total.

A. (No answer.)

Q. Approximately will do.

A. Per year?

Q. Yes.

904 A. The total volume that I handle per year?

Q. Yes, sir.

A. Oh, I would say, somewhere around 30,000 or 40,000 pounds. I would have to look it up before I could answer that.

Q. Somewhere between 30,000 and 40,000 pounds?

A. Yes, sir; I should say somewhere around in there; or even possibly as high as 50,000 pounds, maybe. I would have to look it up before I could tell you definitely.

Mr. BARKELL. All right.

Mr. CLARDY. Just one more question.

By Mr. CLARDY:

Q. Your meat comes in to you at Petoskey in less than truck-load quantities, does it not, Witness?

A. Well, during the summertime, you understand, why, it will run up into quite a volume, and then in the wintertime there are times when there will be but very little. There are times during

the winter when the shipments that I get in may only run three or four hundred pounds; and then again, as I say, in the summer-time, they will run anywhere from 2,000 pounds to 5,000 pounds.

Mr. BARKELL. If there are no further questions, the witness is excused.

(Witness excused.)

Mr. BARKELL. Now, Mr. Clardy, are those all of your shipper witnesses for today?

Mr. CLARDY. That is correct. We have been attempting to concentrate particularly on those from the north, and we have only run in two or three from the south, trying to clear up that part of Mr. Parker's testimony. Now, may we be off the record a moment, your Honor, while we briefly discuss the proposed stipulation?

Mr. BARKELL. All right. Off the record a moment, Mr. Reporter.

(Discussion outside the record.)

Mr. BARKELL. Now back on the record. You may call your witness, Mr. Clardy.

Mr. CLARDY. Mr. Darling.

DALLAS L. DARLING was sworn and testified as follows:

Direct examination by Mr. CLARDY:

Q. Your name, Witness.

A. Dallas L. Darling.

Q. Where do you live?

A. Grand Rapids, Michigan.

Q. What is the nature of your business?

A. Trucking business.

Q. Under what name do you operate?

A. Dallas L. Darling Truck Line.

Q. Your company at the present time is operating in interstate commerce, is it not?

A. Yes.

Q. What is the docket number assigned to your authority?

A. Offhand, I don't know.

Q. You can obtain that for us, can you not?

A. Yes.

Mr. ANDERSON. I have it right here.

The WITNESS. 46280, I believe it is—or I believe that is one of them, anyway.

Mr. ANDERSON. MC 46280, MC 46380, and MC 46380 Sub. 1.

Mr. HARRY YOCKEY. 46280 and 46380?

Mr. ANDERSON. Yes.

Mr. CLARDY. I think it is MC 46280 and MC 46280 Sub. 1.

The WITNESS. Yes.

Mr. CLARDY. I see a notation here of MC 46380, but I think that is an error.

The WITNESS. I think so.

Mr. CLARDY. At any rate—

The WITNESS. At any rate, I have two docket numbers.

Mr. ANDERSON. That is right, and one of them is a sub number.

Mr. CLARDY. You do have two docket numbers.

The WITNESS. Yes.

Mr. CLARDY. Mr. Reporter, protestants' exhibit 19 for identification, please.

(Protestants' exhibit No. 19, Witness Darling, marked for identification.)

907 By Mr. CLARDY:

Q. Now, Witness, I show you this map that has been marked by the Reporter for purposes of identification as protestants' exhibit No. 19, and I will ask you if that map correctly portrays the rights which you hold from the Interstate Commerce Commission at the present time?

A. Yes.

Q. In general, your route runs north out of Grand Rapids, over the route involved in this application, as far as Cadillac, Michigan, does it not?

A. Between Grand Rapids and Cadillac, the route that is involved in this application parallels our route; yes, sir.

Q. And then north of Cadillac your operations extend westward—

A. Grand Rapids.

Q. Or rather, I mean to say, north of Grand Rapids, your operations extend westward into Muskegon, do they not?

A. Yes.

Q. Coming down from a point north of Grand Rapids.

A. Yes.

Q. Do you also serve Traverse City?

A. Yes, sir.

Q. Operating over highways that—well, do they parallel the line of railroad, or not?

A. No, sir; they do not. We serve Traverse City via a county road, and 37.

908 Q. In addition to that, you have a line running from Traverse City southward, have you not?

A. Yes.

Q. Touching Manistee and Ludington on the south.

A. Yes.

Q. Now, Witness, your company has been operating over those routes for approximately how many years in interstate commerce?

A. We have been operating over a portion of that route over 20 years, and over the balance about five years.

Q. At the present time are you handling merchandise destined for points north of Cadillac, that has originated at points outside the state of Michigan by a transfer at Grand Rapids?

A. No, sir; not at Grand Rapids. Our transfer is at Cadillac.

Q. At Cadillac?

A. Yes, sir.

Q. Do you serve intermediate points between Cadillac and Grand Rapids?

A. We serve every one of the intermediate points on route 131; yes, sir.

Q. Now, with respect particularly to that segment of the route, would you tell us what towns you serve along that route, and as you mention them, I wish you would give us for the record some indication of the size of those communities.

A. I will start at Grand Rapids.

Q. Yes.

A. The first town north of Grand Rapids on route 131, 909 which we serve, is Rockford, Michigan, a community with a population of about 3,000 or less; which is also served by—do you also want me to give the names of the other carriers that serve these points?

Q. Yes; if you will.

A. Which is also served by The Pennsylvania Railroad, Associated Truck Lines, Interstate Motor Freight System, and Wolverine Motor Express. Proceeding northward, the next town that we serve is Cedar Springs, a little community with a population of about 1,500, which is also served by the same carriers that I just mentioned, motor carriers, and also The Pennsylvania Railroad. Then we have the small towns of Sand Lake, Pierson, and Howard City.

By Mr. HARRY YOCKEY:

Q. Just a little bit slower, please, Mr. Darling. We are trying to make a note of these points as you go along.

A. I'm sorry.

Q. Sand Lake, and—what?

A. Pierson, and Howard City.

By Mr. CLARDY:

Q. Now, Witness, before you pass on, you say that those points are small.

A. Yes.

Q. Just what do you mean by that term, as applied to those particular towns?

910 A. Well, according to this Michigan map that I have before me here, referring to the population figures, they would be considered as small towns.

By Mr. EGGERS:

Q. Well, that is still a little bit vague. Do you know of your own knowledge how big they are?

A. About 300.

Q. Or how small?

A. 300.

Q. All right.

A. That is, Sand Lake, and Pierson. Next is Howard City.

Q. Yes?

A. About 800.

Mr. EGGERS. All right.

By Mr. CLARDY:

Q. The next town is what?

A. The next town that we serve is Morley, with a population of about 600 people. I might just add at this point that there is no manufacturing—there are no manufacturing industries in any of these towns that I am naming. The next point is Stanwood, with a population of about 300 people. Then comes Big Rapids, which is a manufacturing city, with a population of about 2,500.

Q. All right. Now, then, Witness, proceeding north of Big Rapids, would you tell us the towns that you serve?

A. The next town is Reed City.

Q. By the way, how about Paris, which appears in between Big Rapids and Reed City?

911 A. That is a fish hatchery.

Q. There is nothing of any importance at that point at all, then, I take it, other than the fish hatchery?

A. No.

Q. It is just a crossroads.

A. It is just a fish hatchery. We serve that point with frozen fish. It is a tonnage point for us.

Q. I mean by that, there is no town there.

A. No.

Q. Properly speaking.

A. No.

Q. All right. Now, you say Reed City is next.

A. Yes, sir. That is a railroad junction for two railroads, and it has a population of about 2,500. It is a manufacturing town, with an oil industry and a lumber mill. Reed City is also served



by the Doyle Freight Line, Interstate Motor Freight System, and the two railroads above referred to.

Q. All right. Now, will you continue on north of there.

A. Then next there is a small village, Ashton, with a population of about 100; LeRoy, with a population of approximately 300; Tustin, with a population of about 200; and then the city of Cadillac.

Q. Now, Witness, there is a town named in applicant's exhibit No. 7, although I do not know whether it is spelled correctly there or not, and I do not see it on the map here. In their 912 exhibit it is shown as Orono. Do you know anything about that?

A. I never heard of it.

Q. Is there such a place—

Mr. HARRY YOCKEY. Just a moment.

Mr. ANDERSON. Here it is.

Mr. HARRY YOCKEY. He says he does not know.

The WITNESS. I never heard of it. Is there such a place?

Mr. EGGERS. Just a moment. Let us restrict ourselves to asking questions of the witness, and not having the witness ask them.

By Mr. CLARDY:

Q. Witness, you have been up and down that road there a great many times, have you not?

A. Yes.

Q. I have just been informed that there is such a place. Do you recall ever having seen it in passing up and down the road there?

A. No, sir; I have never seen any such point, and neither have I ever run across any shipment consigned to it; but if there is such a place, I would be interested in it.

Q. Now, witness, what other points, if any, between there and Cadillac do you serve? Are there any more points?

A. Yes, sir; there is on little point calling Dewing.

Q. Dewing?

A. Yes, sir. That is just a little crossroads point, with only one store there, I believe, or something like that.

913 Q. Are you familiar with the town by the name of Belmont?

A. Yes.

Q. If so, where is that point located?

A. Well, Belmont is located off of highway 131. It is just on the River Road out of Grand Rapids. We are certificated to serve it.

Q. It is close to Grand Rapids?

A. Yes.

Q. I mention that, because applicant's exhibit No. 7 here lists that town as an intermediate point to be served. How far from Grand Rapids is it?

A. Well, as I just stated, it is on the River Road, close to Grand Rapids, through Comstock Park, on the road to Rockford. It is approximately seven miles, I would say, from Grand Rapids.

Q. Do you serve both Comstock Park and Belmont?

A. Yes.

Q. What is the size of those communities?

A. Oh, Comstock Park has a population of about 1,000, I should judge.

Q. And Belmont?

A. Belmont is very small.

Q. Now, Witness, are you rendering a regular scheduled daily service over any of these routes that you have described?

A. The Darling Truck Line renders a regular daily service between Grand Rapids and Big Rapids, making a round trip, leaving Grand Rapids at 8 o'clock a. m. in the morning, and leaving Big Rapids at 2:30 o'clock p. m. in the afternoon. That is one schedule. Our other schedule is set up so that the Cadillac truck leaves Grand Rapids at midnight, and we maintain a terminal at Reed City, with an agent there, and freight is loaded and unloaded onto and off the Cadillac truck at Reed City during the night, so that the truck arrives in Cadillac for 7 o'clock distribution the next morning. That same truck then leaves Cadillac at 7 o'clock p. m. that evening, and operates back to Grand Rapids.

Q. Now, referring to the segment of your operation to the north; how do you operate there?

A. Well, from the north we operate out of Traverse City into Manistee, Ludington, and Cadillac.

Q. How frequently is that schedule operated?

A. Daily.

Q. Daily service.

A. Yes.

Q. And you make a junction with the south-bound trucks, do you?

A. Yes.

Q. So that merchandise can move on through to points south?

A. Yes, sir; we do. We make direct connection there with Associated Truck Lines, Interstate Motor Freight System, Wolverine Motor Express, and other truck lines that operate into Cadillac.

Q. Do you have, in addition to that, daily service from Grand Rapids all the way up to your northernmost point?

A. Yes, sir; we do, via other routes.

Q. Well, regardless of the route, do you serve Traverse City with a regular, scheduled, daily service?

A. Yes.

Q. All right. Now, going north of Cadillac, I will call your attention to certain towns here, and ask you to state if you serve them, or any of them, in your operation. These towns are set forth here by the applicant in its exhibit No. 7. The towns are named as Manton, Fife Lake, Kalkaskia, Antrim, Mancelona, Alba, Boyne Falls, Petoskey, Bay View, Conway, Alanson, Brutus, Pellston, Levering, and Sumner.

A. No, sir; we do not operate in connection with Parker Motor Freight—we do not have any connection with Parker Motor Freight at Cadillac.

Q. Do you serve South Boardman, Elmira, or Walloon Lake?

A. No.

Q. Who serves those towns?

A. Parker Motor Freight.

Q. Do you have some connection with them at Cadillac on that operation?

A. We operate a joint terminal there, and interchange freight at that terminal, is all.

Q. Can a shipment that is coming from some point out of the state move to your joint terminal there at Cadillac by some  
916 other carrier, other than your own?

A. Oh, yes, sir; most certainly it can, and it does.

Q. Well, for example, taking shipments starting at either Chicago, or South Bend, or Fort Wayne, and moving up to some of these points that we have just named, which you say are served by Parker Motor Freight; do you know whether or not those movements come directly into Cadillac by some other line?

A. Yes, sir; they do. Interstate Motor Freight System and Associated Truck Lines serve Cadillac daily out of Chicago; and also Cadillac is served out of Chicago by Mc Vicker, and the Wolverine Truck Line—or rather, I should say, by Wolverine Motor Express.

Q. Now, there are still two or three other points named here, Witniss, and I am wondering whether or not you serve any of them. How about this first one here; Kegomic? Do you serve that?

A. No.

Q. Have you ever heard of that town?

A. I never heard of it, and I don't serve it.

Q. How about the town of Harbor Springs? Do you serve that?

A. No, sir; I do not. That point is served by Parker Motor Freight.

Q. And the other town—how do you pronounce that—Wequetonsing?

A. That is also a Parker point.

Q. Now, on the route directly between Cadillac and Traverse City, do you serve any of the intermediate points of Man-  
917 ton, Walton, Summit City, Kingsley, and Mayfield? Do you serve any of those points?

A. No.

Q. Who does?

A. Parker Motor Freight.

Q. That, again is their route, is it?

A. Yes.

Q. Do you interline freight regularly at Cadillac with Parker Motor Freight for those points?

A. Yes.

Q. You do not serve Lake City, do you?

A. Only by the Iverson Motor Truck out of Cadillac.

Q. Out of Cadillac?

A. Yes.

Q. Do you serve Lucas?

A. No.

Q. Or Falmouth?

A. No, sir. Those are served by Iverson also.

Q. Now, do you serve, coming a little bit south, either of the towns of Ravenna or Conklin?

A. No, sir.

Q. Do you know what line does serve those points?

A. I believe Bishop Motor Express.

Q. Now, how many pieces of equipment are you operating in your service at the present time?

918 A. About 50.

Q. In that figure are you including both tractor and trailer equipment as separate units?

A. Yes.

Q. Is that split about half and half?

A. Approximately so; yes.

Q. Has The Pennsylvania Railroad approached you with respect to your furnishing any service to or from any of the points that you serve on your line?

A. No; they never have.

Q. You are familiar with the nature of the application that is here under consideration, are you not?

A. I believe so.

Q. And the service that The Willett Company is proposing to furnish?

A. I believe I am.

Q. You were at the hearing at Indianapolis, when the case of the applicant was presented, were you not?

A. Yes.

Q. If The Pennsylvania Railroad should request you to furnish this service, would you do so?

A. Yes, sir; I would. I am at the present time serving the Pere Marquette Railroad in that same capacity.

Q. That is something that has been recently undertaken?

A. Yes.

919 Q. By the way, Witness, in connection with your serving the Pere Marquette Railroad, what towns are involved in the furnishing of that service?

A. We serve the Pere Marquette Railroad out of Muskegon, Michigan, to the towns of Twin Lake, Holton, Brunswick, Reeman, Fremont, Hesperia, Etna, White Cloud, Bishop, and Newaygo.

Q. Those points are on your route that runs down to Muskegon over 131; is that correct?

A. Yes.

Q. And is the service rendered over that particular route a service in connection with which the railroad company brings the merchandise to some particular point, and then transfers it over its dock to your trucks?

A. We pick it up at their Muskegon freight depot, and deliver it to their various depots along the line.

Q. You heard the witnesses for the applicant testify at Indianapolis with regard to how they propose to have The Pennsylvania Railroad handle the freight in conjunction with The Willett Company, did you not?

A. Yes.

Q. Is there any difference between the manner in which you are presently handling freight for the Pere Marquette Railroad Company, and the manner of handling involved in the proposal of the applicant here, as you heard it described in this case?

A. No, sir; there is not; none whatsoever. The method  
920 by which we are handling it is identical with the way in which they propose to have The Willett Company handle it for them.

Q. Now, Witness, do you have some idea as to the amount of tonnage that may be moving on your line at the present time to and from the points you serve that are embodied and included in this application?

A. I have some knowledge; yes.



Q. Do you have some figures here today, that will give the Board and the Commission a picture of the volume moving into and out of those towns?

A. Well, I haven't prepared any exhibit that can be presented at this time; no, sir.

Q. Well, without going into detail, then, since you say you do not have an exhibit prepared, do you have in mind some approximate figures as to the tonnage that may have moved via your line into and out of the towns along your routes, that are involved in this application?

A. Well, we handle approximately 4,000,000 pounds per month into and out of those various towns that I have named.

Q. That is, in total?

A. Yes, sir.

Q. Now, Witness, is that figure based upon your last year's operations, or what?

A. No, sir; it is not. It is based upon current operations.

Q. Is that figure about the same as, or higher, or lower than, the figure for about the same period last year?

A. About 10 percent higher than last year.

Q. With respect to movements to any particular town, without going into detail as to the exact tonnage, how is the tonnage divided up among the towns?

A. (No answer.)

Q. In other words, considering the operations at all of the towns that are served—or rather, that are proposed to be served by The Willett Company, and which you serve: about what part of the tonnage goes to each of those towns?

A. Well, it would be my opinion that Rockford, Big Rapids, Reed City, Cadillac, and Traverse City, would take about 80 percent of the tonnage.

Q. And the rest of it, the remaining portion, would be divided up among all of the little towns equally—or approximately so; is that correct?

A. Approximately equally; yes, sir.

Q. Now, of those points which you have just named, which is the biggest point—Traverse City, Rockford, or Cadillac?

A. Well—

Q. From a tonnage standpoint.

A. No, sir; none of those towns. Big Rapids is our heaviest tonnage point, due to the defense work that is going on there.

Q. Oh, I see. That is something of comparatively recent origin, then, is it?

A. Yes.

Q. That has taken the place of some other tonnage; or is it just a new development there?

A. It is an extension, and expansion of an industry that was already established there, and due to the war and rearmament, they have heavy contracts there.

Q. All right. Now, that takes about what part of that 80 per cent?

A. The town of Big Rapids, as far as our tonnage is concerned, will take about 50 per cent.

Q. Then would the balance of the towns, the other three towns, split up the remainder pretty well between themselves?

A. Yes, sir; approximately equally.

Q. Now, we have been speaking of both out-bound and in-bound tonnage. How does the out-bound tonnage compare with the in-bound tonnage at these various points, stated in terms of percentage?

A. We are loaded to capacity in both directions.

Q. Well, I do not mean that, Witness. I mean, for example, is the tonnage the same in-bound—

A. Oh, no.

Q. As out-bound?

A. No.

Q. Which is lighter?

A. The out-bound tonnage is lighter.

923 Q. By about how much?

A. About 65 per cent.

Q. In other words, there is about a 65-35 per cent break, then; do I understand you correctly?

A. Yes, sir.

Q. All right. Now, you are speaking only of your own tonnage, are you not?

A. I am only testifying with respect to our own movements, of course; yes, sir.

Q. Now, you are fairly well acquainted with the operations of the carriers that you are competing with at these towns, are you not?

A. I am acquainted with their operations; yes, sir.

Q. Do you have any present knowledge as to about what part of the total tonnage, that all of the common motor carriers may be handling into and out of these towns, is represented by the tonnage that you are handling at these various towns?

Mr. HARRY YOCKEY. Just a moment. I object to the question. The witness has not been qualified to give any testimony along that line.

Mr. CLARDY. I am merely asking him if he knows.

Mr. BARKELL. Oh, let the witness answer the question, if he knows.

A. I don't know.

By Mr. CLARDY:

924 Q. You do not have any accurate figures with respect to how much the other carriers are hauling?

A. No, sir; I don't. I have no access to their records, of course.

Q. Well, just so that we can form the comparison ourselves, would you just check me on this: your present volume, both in-bound and out-bound, you say is about 4,000,000 pounds.

A. Yes.

Q. For what period was that, again?

A. Per month.

Q. 4,000,000 pounds per month.

A. Yes.

Q. Now, taking these small towns which you have named, without going into each one of them separately: you named a number of them that you said have a population of 300 or less.

A. Yes.

Q. At the present time is there any industrial movement to or from any of those small towns?

A. No.

Q. Is the movement principally that of foodstuffs, or such commodities as are generally handled in daily, consumer use?

A. Foodstuffs, and agricultural supplies.

Q. Would that about cover it?

A. Yes, sir.

Q. Is it fair to say also that, as far as the out-bound movement from those towns is concerned, it is negligible?

925 A. Right.

Q. Or is that an extravagant understatement, as to the actual situation?

A. No, sir; it is not. You have not underestimated it. There is no out-bound movement.

Mr. CLARDY. That is all.

Mr. BARKELL. Cross-examine.

Mr. HARRY YOCKEY. Will the Joint Board indulge us here for just a moment, please.

Mr. BARKELL. Certainly.

Mr. HARRY YOCKEY. No questions.

Mr. BARKELL. Are there any questions up here?

Mr. EGGERS. No.

Exam. BRYAN. I have no questions.

Mr. BARKELL. That seems to be all, then, Mr. Darling. You may be excused.

The WITNESS. Thank you.

(Witness excused.)

Mr. CLARDY. I offer protestants' exhibit No. 19 in evidence.

Mr. BARKELL. Is there any objection?

Mr. HARRY YOCKEY. No objection.

Mr. BARKELL. There being no objection, protestants' exhibit 19 is received in evidence and made a part of this record.

(Protestants' exhibit 19, Witness Darling, received in evidence.)

926 Mr. CLARDY. That first exhibit, that I had identified this morning, I did not offer, because we have not as yet concluded with the direct examination of Mr. Parker.

Mr. BARKELL. You are referring now to protestants' exhibit No. 14, are you?

Mr. CLARDY. Yes.

Mr. HARRY YOCKEY. Oh, that can go in, as far as the are concerned, your Honor. However, may we have this understanding—

Mr. BARKELL. Well, now, just a moment, Mr. Yockey. Let us dispose of the exhibit first.

Mr. HARRY YOCKEY. That is what I want to talk about.

Mr. BARKELL. All right.

Mr. HARRY YOCKEY. May we have the understanding that this map, and all of these maps, conform to the certificates which these particular companies have?

Mr. CLARDY. Oh, yes; and I told you that we would give you the certificate number, and it is right here on the map.

Mr. HARRY YOCKEY. All right.

Mr. CLARDY. It is right there.

Mr. BARKELL. There is no objection to protestants' exhibit No. 14; then, as I understand it.

Mr. HARRY YOCKEY. No.

Mr. CLARDY. I will offer it in evidence, then.

927 Mr. BARKELL. There being no objection, protestants' exhibit 14 is received in evidence and made a part of this record.

(Protestants' exhibit 14, Witness Parker, received in evidence.)

Mr. BARKELL. Now, I believe that the other exhibits have already been admitted.

Mr. CLARDY. That is correct, your Honor. Those were exhibits 15, 16, and 17, I believe.

Mr. ANDERSON. Yes; protestants' exhibits 15, 16, and 17 have already been received, the record will show.

Mr. BARKELL. Very well. That disposes of the exhibits up to date, then.

Mr. CLARDY. Protestants' exhibits 14 to 19, both inclusive, then, have been received in evidence.

Mr. BARKELL. Yes. Off the record.

(Discussion outside the record.)

Mr. BARKELL. Now back on the record. We will adjourn at this time until 9:30 tomorrow morning, at this same place.

(At 5 o'clock p. m., June 1, 1942, hearing adjourned until June 2, 1942, at 9:30 a. m.)

928

STATE OFFICE BUILDING,  
*Lansing, Michigan, June 2, 1942.*

Met, pursuant to adjournment at 9:30 a. m.

Before Joint Board No. 23, represented by: Richard H. Barkell, Michigan; Oliver H. Eggers, Indiana.

Present: WALTER W. BRYAN, Examiner.

Appearances: As heretofore noted and the following additional: Frank C. Devlin, 1311 East Michigan Avenue, Kalamazoo, Michigan, appearing for Keeshin Motor Express Co. Inc.

PROCEEDINGS

Mr. BARKELL. Come to order, please, gentlemen. Are you ready to proceed, Mr. Clardy, or Mr. Des Roches?

Mr. DES ROCHES. Yes, sir.

Mr. BARKELL. Call your next witness.

Mr. DES ROCHES. Mr. Duncan.

G. H. DUNCAN was sworn and testified as follows:

Direct examination by Mr. DES ROCHES:

929 Q. Mr. Duncan, will you give your full name to the Reporter, please?

A. G. H. Duncan.

Q. Where do you live?

A. Detroit, Michigan.

Q. By whom are you employed?

A. Associated Truck Lines.

Q. In what capacity?

A. General freight agent.

Q. How long have you been employed by that company?

A. Since approximately '38.

Q. Since 1938?

A. Yes, sir.

Q. Associated Truck Lines is a common motor carrier?

A. Yes.



Q. Of commodities generally?

A. Yes.

Q. Operating both in intrastate commerce and interstate commerce?

A. Yes.

Q. Where is the principal place of business of the company?

A. The general headquarters of the company are located in Grand Rapids, Michigan.

Q. Approximately how many pieces of equipment does the company operate at the present time?

A. 400.

930 Q. Will you please describe for the record, generally, the operating rights that are possessed by the company.

A. From Detroit, Michigan, to South Bend, Indiana, over U. S. highway 112, U. S. highway 12, and M-40, serving all intermediate points. From Detroit to Benton Harbor and St. Joseph, Michigan, over U. S. highway 12, serving all intermediate points, such as Ann Arbor, Jackson, Battle Creek, Kalamazoo, to Benton Harbor and St. Joseph. From South Bend, Indiana, over U. S. highway 31, to Benton Harbor, Michigan, and north to Manistee, Michigan, serving all intermediate points. From Detroit to Grand Rapids and Muskegon, Michigan, on U. S. highway 16, serving all intermediate points. Also various other routes, off routes, from those main arteries.

Q. Did you mention the operating rights of the company into and out of the Chicago area also?

A. No, sir; I did not. We also serve Chicago, Illinois, from all points via U. S. highway 31, and Indiana highway 20.

Q. Now, you have been present here in attendance on this hearing during the past day, have you not?

A. Yes.

Q. You are familiar, I take it, with the application which is under consideration here?

A. I believe I am fairly familiar with it; yes, sir.

Q. I show you now a copy of applicant's exhibit No. 2 in this proceeding, which covers the routes involved in this application. Will you refer to that exhibit, please, and give us the names of the points that are covered there, that are served by your company, and for the benefit of opposing counsel, who may want to make a note of them, do it a little bit slowly, please?

A. Sturgis.

Q. Sturgis, Michigan?

A. Yes, sir.

Q. Yes.

A. Kalamazoo.

Q. Do you want a larger map?

A. No.

Q. All right.

A. I think I can find them all right on here.

Q. All right. Go ahead.

Mr. HARRY YOCKEY. Just a moment. Do you have a map that you are going to introduce, with copies of it for us?

Mr. DES ROCHES. Which do you mean?

Mr. HARRY YOCKEY. This one here?

Mr. DES ROCHES. This is your own exhibit, Mr. Yockey. I have no copies of that.

Mr. HARRY YOCKEY. I am referring to the one that the witness is now using.

Mr. DES ROCHES. That is the same thing that I am talking about. That is your own exhibit, Mr. Yockey; a copy of your own exhibit, one of applicant's exhibits.

932 Mr. HARRY YOCKEY. I mean, your own map.

Mr. DES ROCHES. Of Associated?

Mr. HARRY YOCKEY. Yes.

Mr. DES ROCHES. Oh, no.

Mr. HARRY YOCKEY. Covering their operations.

Mr. DES ROCHES. No.

Mr. HARRY YOCKEY. All right.

By Mr. DES ROCHES:

Q. Go ahead, Mr. Duncan:

A. Martin.

Q. Now, just a moment, right there. Sturgis is located on what route, or what highway?

A. U. S. 112.

Q. U. S. 112?

A. Yes.

Q. Can you state the population of Sturgis?

A. Oh—

Q. In approximate figures.

A. I don't know exactly just offhand, but I would say about two or three thousand, just as a rough estimate.

Q. All right. What is the next point?

A. Kalamazoo.

By Mr. EGGERS:

Q. Kalamazoo?

A. Yes.

By Mr. DES ROCHES:

Q. Does your company operate a terminal at either Sturgis or Kalamazoo?

933 A. We operate a terminal at Kalamazoo, yes, sir, and we are making arrangements for a terminal at Sturgis at the present time.

Q. What terminal presently takes care of your business at Sturgis, then?

A. Kalamazoo.

Q. The Kalamazoo terminal?

A. Yes.

Q. What is the mileage between Sturgis and Kalamazoo?

A. I will have to check that.

Q. Approximately?

A. Approximately 50 miles.

Q. 50?

A. Yes.

Q. All right. Now go on from Kalamazoo.

A. The next terminal would be Shelbyville.

Q. Is that the next point on that line?

A. Well, I mentioned Martin a moment ago, but I don't know whether the Reporter got it or not.

Mr. BARKELL. Did you get that, Mr. Reporter?

(The record was read.)

Mr. BARKELL. Go ahead.

By Mr. DES ROCHES:

Q. All right. We have Martin.

A. Yes.

Q. And Shelbyville?

934 A. Yes, sir.

Q. What is the next point? Go right along.

A. Wayland, Moline, Grand Rapids, Rockford, Big Rapids—

Mr. HARRY YOCKEY. Just a moment.

Mr. DES ROCHES. Rockford.

The WITNESS. Yes.

Mr. DES ROCHES. And Big Rapids.

The WITNESS. Yes.

By Mr. DES ROCHES:

Q. Yes?

A. Cadillac.

Q. Now, Mr. Witness, have you covered all of the points on that map?

A. Yes.

Q. All of the points.

A. All of the points that are served by Associated Truck Lines, yes, sir—or rather, no. I beg your pardon. I am sorry. There are still some other points.

Q. What are they?

A. Muskegon.

Q. What else?

A. Well, now, I believe that is the only other point; Muskegon. Let me see a moment here, please. Yes, that is correct. Muskegon is the only other point.

Q. Now, are all of those points that you have just mentioned, that are served by Associated Truck Lines, served by your 935 company out of its Kalamazoo terminal?

A. No, sir, they are not all served out of Kalamazoo. Those points are served out of several terminals.

Q. Will you explain.

A. The points south of Kalamazoo would be served from the Kalamazoo terminal, and points between Kalamazoo and Grand Rapids are partly served out of Kalamazoo, and partly served out of Grand Rapids. The points mentioned north of Grand Rapids—Rockford and Big Rapids—are served from Grand Rapids. Muskegon, of course, is a terminal point, and is served from all other points.

Q. Now, Mr. Witness, what schedule of operations does your company operate between, say, Chicago and Sturgis, Michigan?

A. Well, we have a daily service between all of those points. Between certain points the traffic is heavy enough to warrant more than one run, but there is always at least one run daily.

Q. Do you mean by that, over-night service?

A. Yes.

Q. And what is the situation between Toledo, Ohio, and any one of these points?

A. It is the same. That is, we render an over-night service from Toledo to any of these points.

Q. What is the situation between South Bend, Indiana and any one of these points?

A. The same.

936 Q. Daily, over-night service?

A. Yes.

Q. Does your company serve any other point or points in the state of Indiana, outside of South Bend, Indiana?

A. Yes.

Q. Where?

A. Oh, we serve Elkhart, Goshen, and Mishawaka.

Q. And what is the situation—or what is the fact as to your schedule between any one of those points, and any of the points in Michigan covered by this application?

A. The same.

Q. That is, the same service?

A. Yes, sir.

Q. Daily, over-night?

A. Yes, sir.

Q. Do you know whether or not there are other common motor carriers that are operating between the points you have just mentioned?

A. Yes, there are several.

Q. Name them.

Mr. HARRY YOCKEY. Well, now, just a moment. I am going to object to that, if the Joint Board please, unless the witness is able to tie them up with specific routes which are mentioned in the application.

Mr. DES ROCHES. All right. Will you just go ahead and 937 tie them up, Mr. Witness, with specific routes that are involved here.

Mr. HARRY YOCKEY. That is, as set forth in applicant's exhibit No. 2.

A. Well, Wolverine Motor Express serves a number of the points, and Interstate Motor Freight System serves other points. The Dallas L. Darling Truck Company serves a number of points. Parker Motor-Freight serves quite a number of points. Doyle Freight Lines serves some of the points.

By Mr. DES ROCHES:

Q. Would you say that Keeshin Motor Express serves any of these points?

A. They do on interstate traffic; yes, sir.

Q. Any others?

A. That is about all that I can think of.

Q. Does your company have equipment available and on hand at the present time to take care of the needs of the shipping public along the route involved in this application?

A. Yes, sir.

Q. Is all of your equipment loaded to capacity at the present time?

A. No.

Q. In other words, then, you do have equipment available to take care of any additional business that might be tendered to you?

A. Yes.

938 Q. Is your company familiar with the type of operation involved in the operation which is here proposed?

A. Yes.



Q. As a matter of fact, are you carrying it on—meaning by “you,” your company—at the present time?

A. Yes, sir.

Q. For whom?

A. The Pere Marquette Railroad Company.

Q. For how long a period of time has your company been doing that?

A. Well, we started on May 25th.

Q. 1942?

A. Yes, sir.

Q. And that is under an agreement entered into between your company and the Pere Marquette Railroad, is it?

A. Yes.

Q. Covering operations between what points?

A. We interchange freight with the Pere Marquette Railroad at Holland and Muskegon, Michigan.

Q. Do you know of your own knowledge whether or not the Pere Marquette Railroad Company has entered into the same arrangement with other common motor carriers here in the state of Michigan?

A. Yes.

Q. With what other carrier or carriers?

939 A. Why, I know that they have got a similar arrangement with Interstate Motor Freight System.

Q. Do you know of any reason why your company could not handle the truck business, or perform the trucking service involved in this application—

A. No.

Mr. DES ROCHES. Let me finish.

By Mr. DES ROCHES:

Q. If The Pennsylvania Railroad Company saw fit to tender the business to your company?

A. No, sir; I do not. I see no reason at all why we could not handle it satisfactorily.

Q. Would your company be fit, willing, and able to carry on such an operation, if the business were tendered to it?

A. Yes.

Q. You have equipment available for that purpose?

A. Yes.

Q. You feel that your company is peculiarly suited and adapted to carry on the operation in question, do you?

A. Yes, sir.

Mr. DES ROCHES. That is all.

Mr. HARRY YOCKEY. May I proceed?

Mr. BARKELL. Just a moment, please, Mr. Yockey. Do you have any questions of the witness, Mr. Clardy?

Mr. CLARDY. Yes.

Mr. HARRY YOCKEY. All right.

940 — By Mr. CLARDY:

Q. Witness, did I correctly understand you to say that you had attended the prior hearing at Indianapolis?

A. In this case?

Q. Yes.

A. Yes, sir.

Q. You heard the testimony at that time, then, of the witnesses presented on behalf of the applicant, describing the kind of operation, and the schedules that they propose to operate in carrying it on, did you not?

A. Yes.

Q. All right. Now, I direct your attention to the particular towns which you serve on routes involved in this application—and by the way, do you have a copy of applicant's exhibit No. 4 before you there?

A. No.

Q. Very well. Here is a copy.

A. I was told that this other one was a copy of applicant's exhibit No. 2, and that is the way it appears to be marked here.

Q. Yes; it is so marked. Here is a copy of applicant's exhibit No. 4 in this case.

A. All right.

Q. You now have applicant's exhibit No. 4—or rather, a copy thereof, before you, have you?

A. Yes, sir.

Q. Very well. Now, I direct your attention first, 941 Witness, to the towns south of Kalamazoo, between that point and Sturgis, Michigan, first. Looking at the first two lines on applicant's exhibit No. 4, which show the proposed departure and arrival times from and at Fort Wayne, Kalamazoo, and so forth, I want to ask you first if you are familiar with the nature of the business, or businesses, that are presently carried on at the towns which you serve on that particular route, so as to know something about what time of the day or night the shippers or receivers of freight in those particular towns have requested your company to furnish service?

A. (No answer.)

Q. In other words, Witness, I want to know if you presently have in mind something about the hours of operation into and out of the towns on that part of the route which you serve; so that

you can tell us whether or not the hours that are set forth on applicant's exhibit No. 4 here are hours that will coincide with the actual times of pickup and delivery that will meet the needs of the shipping public in those towns along that part of the route.

Mr. HARRY YOCKEY. Well, now, just a moment. I want to object to that, if the Joint Board please, as not being involved here at all; as to what particular customers, or what particular shippers and receivers of freight, may need. This is an application whereby we are attempting to put in this service specifically and only 942 for The Pennsylvania Railroad, fitting it into the train schedules of the railroad; and as to whether or not it is that kind of schedule that suits the customers of the company represented by this witness, or the customers of anybody else, is certainly not involved here.

Mr. CLARDY. Well, it is involved, your Honor. The viewpoint expressed by counsel for the applicant is perfectly proper, of course, if that is what he believes; but we do not agree with that theory at all. The public, and not The Pennsylvania Railroad Company, is concerned here, and all that we are now endeavoring to show is that these proposed schedules will not meet the convenience and the needs of the public, even if they do meet the needs of The Pennsylvania Railroad.

Mr. BARKELL. That objection will be overruled, and the witness may answer the question.

A. Well, to operate under these schedules here, from my own experience, would mean a second-day delivery, rather than an overnight delivery.

By Mr. CLARDY:

Q. Why do you say that?

A. Well, the only town that we serve south of Kalamazoo on this particular route is Sturgis, Michigan, and practically all of our daily pickups are made after 3:30 o'clock in the afternoon.

Q. Why is that?

A. Well, it is just the natural custom of the shippers to do their packing during part of the day, so that they do not have their shipments ready until sometime late in the afternoon.

943 Q. And you have accordingly adjusted your schedules, have you?

A. Yes.

Q. To meet that kind of an operation?

A. Right.

Q. Now, Witness, you have had a considerable amount of personal experience in the solicitation of business at both Sturgis and Kalamazoo, Michigan, have you not?

A. Yes, sir; I have. I have been at both of those points quite a number of times.

Q. Then, I take it that you know something about the manner in which the shipping public, particularly at those points, carries on its transportation operation; is that correct?

A. Yes.

Q. All right. Now, if this particular schedule which is proposed in applicant's exhibit No. 4 here, should be adhered to, to meet the convenience of The Pennsylvania Railroad, showing an arrival, after the truck has left Fort Wayne and Kalamazoo, at 11 o'clock a. m., and a departure, the other way, at 4 o'clock p. m., do I correctly understand you to say that that would result in your judgment in a delay of 24 hours?

A. Yes, it would.

Q. All right. Now, let us go north of Kalamazoo. How far north do you run from that point on through?

A. Well, we operate all the way up to Cadillac, Michigan, 944 but there are a number of towns that we serve between Kalamazoo and Grand Rapids, that are not set forth in applicant's exhibit No. 2 here.

Q. All right. Looking at that part of the route, then, between Kalamazoo and Grand Rapids, and noticing that the southbound movement from Grand Rapids leaves Grand Rapids at—well, now, I cannot tell from my copy whether it is a. m., or p. m. I cannot read the first one there, but I believe it is 11:30-something. Is that a. m. or p. m.?

Mr. EGGERS: A. M.

Mr. CLARDY. It is blanked out on mine.

By Mr. CLARDY:

Q. What does the copy that you have in front of you there show, Witness?

A. I read it as 11:30 a. m.

Mr. HARRY YOCKEY. It must be a. m.

Mr. CLARDY. Yes; it must be, because Kalamazoo is 2:40.

By Mr. CLARDY:

Q. Now, Witness, I have asked you—or I am asking you the same question with respect to the towns along the way between Grand Rapids and Kalamazoo.

A. That is—

Q. As to whether or not this particular schedule, as set up on applicant's exhibit No. 4 here, would operate at times that would best suit the shipping times of the shippers at these particular points.

A. Well, the schedule leaving Grand Rapids at 11:30 o'clock in the morning, would be out of line, would be too early for

945 the shippers there to make shipments on that particular day. Those shipments would be shipments that had been picked up the day previous—or rather, I mean to say, that had been made ready the day previous.

Q. In other words, a shipment to move on that 11:30 a.m. southbound trip, would necessarily be something which the shipper had ready the day before; is that correct?

A. Yes, sir; my experience would lead me to believe that that would have to be the situation.

Q. By the way, Witness, your home terminal—that is, the home terminal of your company—is at Grand Rapids, is it not?

A. Yes.

Q. That is the principal point from which the company radiates its operations; is that correct?

A. Yes.

Q. All right. Now, Witness, I believe that you were describing—well, did you give us the size of the towns between Grand Rapids and Kalamazoo?

A. I didn't give you the population of those towns; no, sir, but I can check them from the map here, if you would care to have me do so.

Q. Yes; I would like to have you do that, because I would like to have some additional information based on that.

Mr. EGGERS. We already have that information in the record, have we not, Mr. Clardy?

946 Mr. CLARDY. How is that, your Honor?

Mr. EGGERS. Do we not have that information already in the record, as to the size of those towns, the population of those towns?

Mr. CLARDY. No; I do not believe you have, your Honor, as to all of those towns. You do, as to the towns in the upper end, I believe, above Cadillac.

Mr. HARRY YOCKEY. To save time, and also to save burdening the record, can we not stipulate that the Commission may take judicial notice of the 1940 census, with respect to the population of all of the cities and towns involved?

Mr. CLARDY. I am perfectly agreeable that that be done, if that is agreeable to the Board.

Mr. HARRY YOCKEY. All right.

Mr. BARKELL. That is perfectly agreeable, as far as we are concerned; and it may be so ordered.

Mr. HARRY YOCKEY. That will save time, and avoid burdening the record just that much.

Mr. BARKELL. Yes.



By Mr. CLARDY:

Q. Well, then, I will just ask you a general question on that, Witness. The towns on the proposed route between Grand Rapids and Kalamazoo, excluding the termini points, are all small towns, are they not?

A. Why, I have just checked two of those points here, and I see that Shelbyville has a population of 100. I do not  
947 imagine that the other three towns of Martin, Wayland, and Moline, have very many more people in them, if any more at all, than that.

Q. Is there any volume at all moving out-bound from any of these towns, if you know, between Grand Rapids and Kalamazoo?

A. It is practically nil.

Q. And is there any great amount of in-bound freight moving into any of those small inland towns?

A. No; just general merchandise.

Mr. EGGERS, Off the record a moment.

(Discussion outside the record.)

Mr. BARKELL, Back on the record.

Mr. EGGERS, Pardon the interruption, Mr. Clardy.

Mr. CLARDY. That is quite all right, your Honor.

By Mr. CLARDY:

Q. Now, Witness, looking at the map again, and particularly that part of it between Kalamazoo and Grand Rapids, would you give us some estimate of the amount of in-bound tonnage at those small intermediate points, that will move in there on the average over any period of time, that you desire to use, for your convenience?

A. Well, of course, in answering that question, Mr. Clardy, I can only speak for my own company.

Q. Yes; I understand that, Witness, and I am only asking you to testify with respect to your own company.

A. We operate one small piece of equipment daily down through that territory, and it is not always loaded. That driver  
948 would not have, and he would not expect, more than three or four tons for all of the points involved.

Q. All combined?

A. Yes, sir.

Q. And that will necessarily include one freight moving from Grand Rapids to Kalamazoo, will it not?

A. No.

Q. Or the other way around, from Kalamazoo to Grand Rapids?

A. No, sir.

Q. Just the intermediate points?

A. That is all.

Q. Does that also include some off-route points?

A. No.

Q. Now, Witness, is the operation which your company is conducting at the present time between Grand Rapids and Kalamazoo, sort of a peddler service?

A. Yes, sir; it is a peddle run.

Q. Out of Grand Rapids?

A. Yes, sir; and I might add that under this new order, ODT order No. 3, we may have to curtail that service for lack of traffic.

Q. And by that do you mean that even though you are using small equipment—

A. That is it.

Q. The loading will not be enough to meet the 100 percent and 75 percent requirements?

949 A. That is right.

Q. Is that operation handled in only one direction; that is, south-bound out of Grand Rapids only—

A. Yes.

Q. Or in both directions?

A. No, sir. The three towns just mentioned are served from Grand Rapids. We load at Grand Rapids and peddle from there. However, we do serve some other points, as I mentioned before, out of Kalamazoo, but they are not shown on applicant's exhibit No. 2 here.

Q. Points not shown on exhibit 2?

A. Right.

Q. Now, Witness, turning your attention to the next segment of the route running west between Grand Rapids and Muskegon, Michigan; how do you handle freight between those points, and what intermediate towns do you serve?

A. Well, we serve Nunica, Fruitport, and Muskegon; also Coopersville and Marne.

Q. Those are all of the intermediate points between Grand Rapids and Muskegon, are they?

A. Yes, sir. They are not shown on this exhibit 2, however.

Q. Well, applicant's exhibit No. 2 is a railroad map, you understand, Witness.

A. Oh, yes.

Q. So it does not show those points.

A. No.

950 Q. But I say, those are all of the intermediate points on the route between Grand Rapids and Muskegon; is that correct?

A. That is all we serve.

Q. Well, are there any other points in there that you know of, that might be served?

A. Yes.

Q. What?

A. Well, there is Spring Lake, Ferrysburg, and Grand Haven.

Q. Well, those are out of line; now, are they not, Witness, going to Muskegon?

A. (No answer.)

Q. In other words, those are to the south and west of the direct route between those two points; are they not?

A. Yes.

Q. But so far as U. S. highway No. 16 is concerned, and also 37 and 46, you have named, and you serve, all of the intermediate points; is that correct?

A. On 16, 37, and 46.

Q. Yes.

A. Right.

Q. All right. Now, Witness, do you serve between those two points in the same kind of peddle operation, or is that a regular, scheduled, through run there from some other points; or just exactly what is it?

A. Our Muskegon freight—it is a peddle movement to 951 those smaller communities between Grand Rapids and Muskegon; but Muskegon freight usually runs through, from, we will say, ~~Detroit~~ to Muskegon, right through to Muskegon, or from Lansing to Muskegon, or from Kalamazoo to Muskegon, or from South Bend, Indiana, to Muskegon, or from Toledo, Ohio, to Muskegon.

Q. Is there any appreciable volume of movement out-bound from any of the intermediate points between Grand Rapids and Muskegon?

A. No, sir; there is not.

Q. Is that practically nothing, as a matter of fact?

A. Right.

Q. And in the case of the in-bound movement, is there any appreciable volume in total to all of those intermediate towns?

A. No, sir; hardly anything.

Q. Well, now, would you give me some estimate as to about how much you think the daily average to those intermediate points combined would be?

A. Well, the daily average to those towns would be less than the figure that I gave you for those other places.

Q. It would not exceed—

A. It would not exceed—oh, two or three tons, say, perhaps, at the most.

Q. All right. Now, as to that particular run, are the ODT orders going to have any effect on your ability to operate that?

Mr. HARRY YOCKEY. Now, just a moment. I object, if  
952 the Joint Board please, to going into the ODT orders in this proceeding.

Mr. BARKELL. I do not believe that we are interested in the ODT situation, Mr. Clardy, as far as this particular hearing is concerned.

Mr. CLARDY. Your Honor, may I be heard on that? I think you are, and I would like to point out why.

Mr. BARKELL. All right.

Mr. CLARDY. The reason why, your Honor, I think that you are interested in that situation, is this: those orders are the same as law. By the Congressional enactment under which they are promulgated, they have the force and effect of a statutory enactment; and they compel all of the carriers, including this particular carrier, to observe a certain loading in both directions. Now, what we are proposing to show by this testimony is that the volume of freight to and from the towns involved will not be sufficient to permit the present carriers, without combining their efforts, and pooling their traffic, to comply. Otherwise, they will not be able to comply; and therefore, by inference, we are showing the fact that the railroad company will not be able to comply with the ODT orders; and since that is a requirement of the law, you cannot, as we see it, grant the authority requested here unless and until the applicant has refuted the showing that we are making, through this kind of testimony.

953 Mr. EGGERS. That is strictly an operating problem, though, is it not, Mr. Clardy?

Mr. CLARDY. No.

Mr. EGGERS. Of each individual carrier?

Mr. CLARDY. No, your Honor; it is much more than an operating problem. It is now a legal requirement that they must meet, and if they cannot show that they are going to be able to comply with that requirement, then certainly the Commission is not authorized to issue a new order permitting this new operation, because that involves the question of public convenience and necessity. Furthermore, it shows it in two ways. By showing an inability to comply with the ODT order, it also shows that the volume of traffic is such, since we cannot comply with that, as not to necessitate any additional service, and in fact not all of the present

service; so by asking that one question, as to whether they can or cannot comply with those orders, it sums up in effect the factual situation with regard to the volume and amount of traffic, which certainly is pertinent on the question of public convenience and necessity; because if the volume is less than that amount, then there is no need for any additional service. That is why I wanted to go into it, your Honor. It will not be more than just a single question or two on each of these routes, but I do want that in the record.

Mr. HARRY YOCKEY. If there is any doubt in the mind of any member of the Joint Board, I would like to say something  
954 on it, but I do not want to take the time and burden the record, unless it is necessary.

Br. BARKELL. Off the record.

(Discussion outside the record.)

Mr. BARKELL. Back on the record.

Mr. CLARDY. Now, your Honor, may I have a ruling on the record. I understand from your informal ruling just now off the record, that I am to be precluded from asking any further questions of this witness, or any other witness, as to how the ODT orders would affect, if at all, his operation?

Mr. BARKELL. Right.

Mr. CLARDY. Is that correct?

Mr. BARKELL. That is correct.

Mr. CLARDY. Well, then, I would like to merely make an offer of proof, with respect to this particular witness, and then we will apply it to the other witness; and my offer of proof is that, that if this witness were permitted to go into that matter, he would testify that his company is, and will be, unable to meet the requirements as to loading contained in the ODT orders, unless there is a system of combining the freight handled by his company and other lines, over these various routes.

Mr. HARRY YOCKEY. I renew the objection.

Mr. BARKELL. Sustained.

Mr. CLARDY. Well, then, your Honor, I will try to get  
955 at it in another way, if I can.

By Mr. CLARDY:

Q. Witness, with respect to the movement particularly between Muskegon and Grand Rapids, serving those intermediate points: does your company have a sufficient volume of freight offered to it over that route, so that it is able to move at full capacity, the vehicles which it uses in that operation?

Mr. HARRY YOCKEY. Just a moment. May I inquire now, your Honor, as to which one he is talking about.

Mr. CLARDY. Which one of what?



Mr. HARRY YOCKEY. The witness has already testified that over this particular route some of the freight comes from one point in a through run from one point, and some of it comes in a through run from some other point. Now, which one do you mean, which one are you talking about—or do you mean all of them, Mr. Clardy?

Mr. CLARDY. Your Honor, I thought my question was perfectly clear, but perhaps it was not. I said, in his operation between Grand Rapids and Muskegon, serving the intermediate points. I am merely asking the witness if, in carrying on that operation, the equipment that his company uses is loaded to its full capacity at all times when it is performing that service.

Mr. BARKELL. Answer the question.

A. No; it is not.

By Mr. CLARDY:

Q. Is it loaded to as much as 75 per cent of 1166 its capacity in either or both directions?

A. No; it is not.

Q. About what size equipment does your company use in its service at the intermediate points on this particular part of the route?

A. Well, at the present time we are only using a 14-foot stake job in that particular operation.

Q. Is that 14-foot stake job one of the smallest units that your company operates?

A. Yes.

Q. And that vehicle, as I understand your testimony, is only lightly loaded on this run; is that correct?

A. Yes, sir; that is correct; and I would like to add that any further diversion of traffic there would probably result in curtailing the service to an operation one or two days per week, rather than a daily operation.

Q. Is your company the only carrier that is presently rendering service at these intermediate points between Muskegon and Grand Rapids?

A. No; there are others.

Q. Would you name some of those others.

A. Well, there is Warren Truck Lines, Interstate Motor Freight System, U. S. Truck Company, Doyle Freight Lines, and Vyn Company.

By Mr. HARRY YOCKEY:

Q. Vyn?

A. Yes.

By Mr. CLARDY:

Q. Yes?

A. That is all that I can recall.

Q. Do Michigan Messengers operate there?

A. Oh, that is right; yes, sir.

Q. Does your company at the present time have under consideration some arrangement with some of these other carriers for the combining or pooling of all of your traffic, so as to eliminate some of these operations?

A. Yes, sir; we have had several meetings in the past couple of weeks with various other companies, endeavoring to work out a plan, or a means, of giving daily service to these small, intermediate points, with the thought of loading 100 per cent out-bound, and 75 per cent in-bound. So we are endeavoring to work out some plan with a few of the other lines, whereby we will probably turn all of our freight over to them for certain points, and they on the other hand will do the same thing with us, turn all of their freight over to us for certain other points. That is the same principle that the Pere Marquette Railroad Company is working on.

Mr. HARRY YOCKEY. Well, now, just a moment. I want to object again, if the Joint Board please, to going into the Pere Marquette Railroad principle, or plan. That is not involved here.

Mr. CLARDY. Oh, but it is, your Honor, because it is the precise kind of service that The Pennsylvania Railroad Company is asking for here.

Mr. HARRY YOCKEY. No; your Honor. We are getting into something altogether different now. If you permit Mr. Clardy to bring that in, then you have another issue; as to whether it is the same, or whether it is not. I say again, it is a comparative proposition, that is not involved here at all. The mere fact that it might fit in on some other railroad at some other point, certainly cannot have any possible bearing here. As I say, it just goes into another issue. We have no way of going into what the Pere Marquette Railroad operation is. How can we cross-examine this witness on that? The Pere Marquette Railroad Company is not here. That matter is not involved. It is a comparative proposition, and highly improper to go into here.

Mr. CLARDY. Your Honor, the whole question is whether this entire case shall be tried on their theory, and their theory alone; and their attitude is that we are not entitled to even think, or breath, if our theory is different from theirs. Now, I do not quarrel with their viewpoint, their theory. It is their theory, and they have a right to it, but it is my contention—or, I should say, it is our contention that we are entitled to show in every way we can by

competent proof, that the kind of service they are proposing here is precisely the kind of service that is being rendered at the present time by the carriers that are protesting in this particular case; that it is no different from their operations; and that therefore there is no reason why another truck line should be permitted to handle this business, just because The Pennsylvania Railroad Company takes the attitude that it will not do business with us. Their attitude has been here that we must try the case on the theory that they are a special law unto themselves, and that any evidence that tends to contradict what they claim the factual situation is, is incompetent. Now, counsel for the applicant is entitled to claim that there is no other thing like this on the face of the globe; but by the same token, we are entitled to show that it is a common, everyday operation, that is carried on by other carriers; and that is all that we are trying to show now.

Mr. HARRY YOCKEY. May I say something further, your Honors, in reply to that?

Mr. BARKELL. Just a moment. Off the record, Mr. Reporter.  
(Discussion outside the record.)

Mr. BARKELL. Back on the record.

Mr. HARRY YOCKEY. If the Joint Board please, it is rather difficult to keep up with the reasoning of Mr. Clardy. Let me say that I have never yet been in a case where I have so continuously been compelled to listen to arguments that are contrary to the law. The entire theory of protestants from the very beginning of this case has been that the decisions of the Interstate Commerce Commission are all wrong.

960 Mr. CLARDY. That is a part of our theory.

Mr. HARRY YOCKEY. That is their theory, that all of the decisions of the Commission are wrong, and therefore, the presentation of our case should not be permitted, or should not be considered on the basis upon which we are presenting it. Now, that is all that we are asking at any time here, just to present our case from our own viewpoint; and I, on the other hand, do not have any objection to the protestants trying to get their evidence in. But the contention of Mr. Clardy here is certainly altogether untenable. The presumption here is that the Interstate Commerce Commission is going to follow the law, as it always has followed it in these other cases—

Mr. CLARDY. Oh, no?

Mr. BARKELL. Let Mr. Yockey finish.

Mr. HARRY YOCKEY. In which the Commission has held that it has no jurisdiction to compel a railroad company to deal with an independent truck line. Now, that is what the law is.

Mr. CLARDY. Well, now—

Mr. HARRY YOCKEY. The mere fact that Mr. Clardy may differ with that, does not change the situation one iota.

Mr. CLARDY. I am not going to argue the law here.

Mr. BARKELL. No. If you gentlemen want to argue the law, you will have to file a brief. We are not going to argue the law at this time here. The objection will be overruled, and an exception noted. Let us proceed.

961 Mr. CLARDY. Now, Mr. Reporter, I believe that the witness was right in the middle of an answer, when he was interrupted. Will you go back and read the answer, please, as far as it went.

(Answer read.)

By Mr. CLARDY:

Q. Will you continue on, Witness, and finish what you were saying about the Pere Marquette Railroad.

Mr. HARRY YOCKEY. Then there was another question following that, was there not?

Mr. CLARDY. No.

Mr. HARRY YOCKEY. To which I objected?

Mr. BARKELL. No.

The WITNESS. I had finished my answer.

Mr. LINDSTRAND. Then the objection was made.

Mr. EGGERS. Yes.

Mr. HARRY YOCKEY. All right.

By Mr. CLARDY:

Q. Well, now, Witness, that we are on that subject, let me ask you this: is there any difference between the arrangement that you have entered into—or rather, that your company has entered into, with the Pere Marquette Railroad Company, and the arrangement that is involved here, as it has thus far been explained, in the testimony in this case?

A. As I understand it, there is not any difference at all; no, sir. I understand that the equipment that The Willett Company will put into this service is exactly the same type, some  
962 smaller, and some larger, as the equipment that we use in our operations; and any further service, as I stated before, between any of the points that we are serving at the present time, would certainly divert some of the traffic at least, and would mean a curtailment of our service.

Q. Well, now—

Mr. HARRY YOCKEY. Now, just a moment. If the Joint Board please, I want to move that that latter portion of the answer, with respect to a possible diversion of traffic, be stricken from the record. That is not involved here.

Mr. CLARDY. Well, if it is not, your Honor, then this is a mighty myny case. That is all I can say.

Mr. HARRY YOCKEY. The theory of our case is, that we want to take the freight of The Pennsylvania Railroad, and haul it on our trucks.

Mr. BARKELL. Well, now, counsel, we are not going to get back into the argument that we had down in Indianapolis at the first hearing in this proceeding; as to whether or not it is necessary to show public convenience and necessity in this case.

Mr. HARRY YOCKEY. No, your Honor; I do not mean that. I do not want to get into that.

Mr. BARKELL. We are not going back to that again. We have been all through that.

Mr. CLARDY. We will argue that after we get through here.

Mr. BARKELL. Yes.

63 Mr. HARRY YOCKEY. Well, I want the record to show, if the Joint Board please, that I am objecting to that particular portion of the answer.

Mr. CLARDY. Well, the question has been answered by the witness, so I will ask another.

By Mr. CLARDY:

Q. Witness, do the negotiations which you are presently carrying on with the other carriers with regard to the pooling of traffic, and the curtailing of operating schedules, which you have described with regard to the Grand Rapids-Muskegon operation, also obtain with regard to the other routes over which you are operating and furnishing a local service at the present time?

A. Yes, sir; that is correct. They apply to points between Grand Rapids and Big Rapids—which is one of the points included in this application. We plan to turn our traffic over to another company to all of those points between Grand Rapids and Big Rapids.

Q. And is that for the same reason—

A. The principal reason—

Q. Namely, that the traffic is too light to warrant the continued operation under the changed circumstances?

A. That is the principal reason; yes, sir; and also because of the circuitous mileage between Grand Rapids and Cadillac, Michigan.

Q. Bringing in the element of tire saving?

64 A. Yes.

Q. All right. Now, Witness, is the proposal which you are presently working on with these other carriers, bottomed on some general canvass by you and the other carriers, as to the total amount of tonnage that will be moving to and from these various points?



A. Yes, sir; that is correct. We made a very careful survey of the tonnage that we have handled between these points for the period of—well, covering quite a lengthy period of time, and we have developed from that information taken from our manifest billing sheets, that we have got to do something about it; either cut the service down to one or two days per week; or secure tonnage from some other line; or, where they happen to be light, turn the traffic over to them, so they can load 100 per cent out-bound and 75 per cent back.

Q. Now, Witness, in your canvass of the situation, you made some investigation, I take it, to see what the total amount of tonnage might be moving into and out of all of these towns, handled by all of the different carriers, so as to have some firm foundation upon which to decide which way to handle the business; that is, as to whether you would take it, or whether somebody else would take it.

A. Well, we have not developed that information from all of the carriers; no, sir; but we have with the few that we have been  
965 dealing with; yes, sir. I presume that the situation is the same with the others, as it is with the few that we have been trying to work out this plan with.

Q. In making your surveys and checks covering the towns on the routes here involved, what did you find with respect to whether or not the present tonnage that you are handling is greater or less than, or the same as, as it has been in the past?

A. Well, the tonnage is much less to these small intermediate towns, than it formerly was, because they have been affected by the freezing orders that have gone into effect on the various commodities, such as refrigerators, electrical appliances, washing machines, and so forth, and so on; and those little towns as yet have not been fortunate enough to secure war contracts, or have any war plants erected in them—that is, most of them; so that the tonnage is much less at the present time than it was prior to the outbreak of the war.

Q. Do you know of any prospective increase in business at any of these small, intermediate points that we have been discussing here this morning?

A. There is nothing in sight, that I know of, at any of these places we have mentioned; no, sir.

Q. Has the answer which you gave about the small out-bound movement from any of these points, been the situation over the past several years?

A. (No answer.)

966 Q. In other words, has it always been practically negligible, as far as the out-bound was concerned?

A. Oh, yes; that is correct. The picture in that regard has not been changed at all during a number of years past.

Q. Now, Witness, we have been talking about the intermediate points here. What kind of service does your company render, for example, between Grand Rapids and Muskegon proper?

A. Well—

Q. I mean, is that something in addition to this peddle run that serves the intermediate points in there?

A. Yes, sir; that is correct. That is in addition to the peddle run.

Q. About how many schedules on through business do you run between those points?

A. Oh, there are three or four schedules daily between Grand Rapids and Muskegon—that was your question, was it not?

Q. Yes.

A. Yes, sir; there are several daily schedules there.

Q. And what about your operations south out of Grand Rapids? Do you have some through schedules there?

A. Yes, sir; we have through schedules from Grand Rapids to Kalamazoo; through schedules from Grand Rapids to Holland, Michigan; and through schedules daily from Grand Rapids to Benton Harbor and St. Joseph; and from Grand Rapids to Chicago.

967 Mr. EGGERS. Right there, Mr. Clardy; why not restrict yourself to applicant's exhibit No. 2?

Mr. CLARDY. Because, your Honor, some of these operations will be over routes that are involved here.

By Mr. CLARDY:

Q. In connection with operations north, Witness, do you have some through schedules running north?

A. Yes, sir; we do. We have daily through schedules from Grand Rapids to Manistee and Cadillac, Michigan.

Q. Now, you gave us, I believe, an idea of the total amount of equipment that your company has in operation at the present time.

A. Yes.

Q. But I do not think you told us as to whether the amount of percentage of the total percentage in operation on your line is the same as it has been prior to the outbreak of the war.

A. (No answer.)

Q. Would you tell us what the fact is with regard to that?

A. Well, if I understand your question right, we have the same number of pieces of equipment that we had before; yes, sir; but there are not as many of them operating at this time.

Q. Yes; that is what I meant. About what percentage of the equipment is idle, if you can tell us, as of today?

A. Oh, I would say approximately 20 per cent.

Q. 20 per cent.

A. Yes, sir.

Q. And as to the balance, that is operating, is it loaded to the same per cent of capacity now as it was prior to the outbreak of the war?

A. Well, that is what we are attempting to do right now; yes, sir; but prior to today it has not been; I can say that.

Q. Well, will that situation, if it should continue, result in a further curtailment of the total number of units which you will operate over your system?

A. Why, yes, sir; it will, because where we may have used two pieces of equipment before, now we will probably be able to use one, to load all of the freight on one piece of equipment.

Q. Now, at the first hearing in this proceeding, Witness, at Indianapolis, there was some considerable testimony introduced by a couple of the witnesses on behalf of applicant about how they would handle the freight across the dock at Fort Wayne, Indiana.

A. Yes.

Q. You were present at that hearing, I believe you said—were you not?

A. Yes.

Q. And you heard that testimony, did you?

A. Yes.

Q. All right. Now, assuming for the purpose of my next question, that the freight moves into Fort Wayne, Indiana, by train, and then is transferred to a truck for movement to a point intermediate between Fort Wayne and the other key point to the north.

As I heard the testimony, it appeared that they gave some indication that they were going to save about 24 hours at that point in the actual handling of the freight from car to truck. In other words, their testimony was that the saving would all take place right there at Fort Wayne. Now, assuming that, instead of Fort Wayne, it is going to be Grand Rapids—which is the other key point—for the purpose of my question. If they will handle the freight over their dock at Grand Rapids in the same manner that they say they will handle it at Fort Wayne, is there any reason why your line could not make its trucks available in the same way that they propose, with the same saving in time—if there is such a thing?

A. Well, now, I don't believe that it makes any difference at all, whether the freight moves in a freight car—a boxcar, or whether it moves on a licensed piece of equipment by motor carrier. When it reaches the dock, the same physical handling must be done.

Q. Well, now, Witness, you have not answered that particular question. My question was, assuming that there is going to be the same handling in the same way, at Grand Rapids, and assuming further that there will be the same claimed saving of time at Grand Rapids, when it goes across the railroad dock, do you know of any reason why your company could not spot the trucks, and effectuate precisely the same saving to the railroad, that they have outlined and claimed would result if they use the trucks of

The Willett Company?

970 A. Oh! I understand your question now. I misunderstood you before. No, sir; I cannot see any reason why we could not operate exactly the same way.

Q. All right. Now, I will ask you the other question, Witness, which you answered before I asked it, and so, for the record, I will ask it now. You have heard the applicant's testimony. Is there in your judgment any possibility of a saving, based just upon what the applicant's witnesses have testified to in the record thus far?

Mr. HARRY YOCKEY. Just a moment. I object to the question, if the Joint Board please, as calling for an opinion and conclusion on the part of the witness, which he is not qualified to give.

Mr. BARKELL. I must say, Mr. Clardy, I do not believe I understand your question myself.

Mr. CLARDY. Well, perhaps I am a little bit deep there, your Honor. The witness really answered the question before I asked it, but for the sake of the record, I would like to ask this question, as to whether the actual saving in time would accrue, as claimed, with the factors exactly as they have thus far explained them. I want this witness to tell us why, out of his experience as a transportation man, that saving which is claimed is nothing more than a figment of the imagination, and would not, as a matter of fact, take place. That certainly is in issue here, and it is  
971 certainly competent to have this witness testify to it.

A. Well, the answer is: no.

By Mr. CLARDY:

Q. Why?

A. Well, in the first place—

Mr. EGGERS. Well, now, just a moment, Mr. Clardy. Do I understand, now, that this witness is going to attempt to refute the testimony which has been introduced by the applicant here, that they are going to save between 24 and 48 hours?

Mr. CLARDY. Definitely.

Mr. EGGERS. That is the purpose of your question, is it?

Mr. CLARDY. Yes, your Honor—right head-on with their contention that there will be a saving, we are going to try to show you that there will not be.

Mr. HARRY YOCKEY. I am objecting to the question, if your Honors please, for the reason that this witness has not been qualified here as knowing or understanding anything about the operation of the railroad. The evidence in this case regarding the saving of 24 hours' time at Fort Wayne, is that these freight trains come into Fort Wayne, and as the operation is handled at the present time by the railroad—not by truck, but by the railroad—when those cars come in, the less-than-carload cars are taken into the yard, first, into the classification yard, and then they go into the freight house, and it takes 24 hours in that operation to get that less-than-carload freight out of the boxcars 972 in which it comes in, and into the boxcars that go out north.

Now, that is a railroad problem in which the trucks are not involved.

Mr. BARKELL. That is the way I also understand the testimony that was given in Indianapolis.

Mr. CLARDY. Which way?

Mr. BARKELL. That is, that it is a matter of railroad operation only, and not involving physical transfer from rail to truck.

Mr. CLARDY. Well, then, your Honor has a faulty understanding of what the witnesses for the applicant have really said, and what we are attempting to refute; because this man—and I see now that I should have asked him another question, which I overlooked—has had railroad experience, and some 18 years or more in all of transportation experience; and he knows the manner in which freight is handled; he knows the manner in which it can be handled; and I want him to delineate at some length the reasons why the saving which is claimed here in time, is surely a figment of the imagination. I can demonstrate it, and if I have not done so when I have gotten through with this witness, your Honor may strike it from the record.

Mr. BARKELL. All right. Proceed.

Mr. CLARDY. I will ask the witness a preliminary question, your Honor. I will withdraw the other question for the moment.

Mr. BARKELL. All right.

973

By Mr. CLARDY:

Q. Now, Witness, would you give us some outline of your past transportation experience.

Mr. LINDSTRAND. Just a moment. I object to that, if the Joint Board and the Commission please, for the reason that this witness by his own testimony, has worked for Associated Truck Lines since 1938, and he cannot know what the railroad situation has been, or what the railroad problems have been, during the last four years, at least; and that is what we are contending with



w, and what we are putting into this record before this joint board.

Mr. CLARDY. The trouble with the railroads, of course, your Honor, is that they have not changed any over all of the years. At the point that I want to make is, that the manner in which the freight will be handled, for the purpose of my question, is exactly the same as the railroad claims it will be handled. In other words, we are not changing that at all, for the purpose of this testimony.

Mr. HARRY YOCKEY. I have no objection to your testifying how you would handle it, if you were handling it, the moment The Pennsylvania Railroad turned the business over to the truck line—whether it be The Willett Company or some other carrier.

Mr. BARKELL. Off the record:

(Discussion outside the record.)

Mr. BARKELL. Back on the record. We will take the testimony of the witness for what it may be worth.

Mr. CLARDY. All right, your Honor. It may not be worth anything, of course.

Mr. BARKELL. Proceed.

Mr. CLARDY. But I think it will be worth something, because I know what the answer is.

By Mr. CLARDY:

Q. Now, do you recall my question, Witness?

A. No.

Mr. CLARDY. Will you read it, please.

(Question read.)

A. I spent about seven and a half years with the Michigan Central Railroad Company. Following that, I was connected with The Detroit United Railways, the name of which was later changed to Eastern Michigan Railways, for around 10 years. At that time they were conducting operations over rail tracks. Since that time the company was sold, partly to Associated Truck Lines, with which I am connected at the present time.

By Mr. CLARDY:

Q. And you have been in the trucking industry ever since, have you?

A. Yes, sir.

Q. And that has been—

A. Since about 1921, I would say.

Q. Very well.

Mr. EGGERS. Mr. Clardy, I wonder if you would ask the witness what his capacity was with the various railroad companies by which he was employed.

975 Mr. CLARDY. Oh, yes.  
Mr. EGGERS. If you will do that.

By Mr. CLARDY:

Q. Suppose you tell us that, Witness. I would like to have that in the record myself.

A. My capacity?

Q. Yes.

A. Well, of course, I worked in the freight house for the Michigan Central Railroad; I worked in the freight house, and in the traffic department at Detroit, of the Detroit United Railways; and I was traffic manager for the trucking company.

Q. All right. Now, you have heard what has already been said here; you have heard all of the description of the physical manner in which The Pennsylvania Railroad actually switches its cars, and handles its less than truckload traffic at its various stations, particularly Fort Wayne, have you not?

A. Yes.

Q. Now, was that method of handling, as they have described it here, any different from the methods that were used at the time that you were actively in the service of the railroads which you have mentioned?

A. No, sir, it was not. The physical handling was the same at that time as it is at the present time, except as to the point concerning which their witnesses testified, where apparently the freight was going to be taken right out of the boxcar, and loaded directly onto the truck for deliveries along this route.

976 That cannot be done. In other words, the first shipment might be for the first point, but if it was transferred that way it would be up in the front end of the truck, and a shipment that might be for the next point would be in the middle of the truck; and the driver of that piece of equipment just could not possibly handle the freight in that manner. In other words, it would have to be floored in the freight house to begin with, and loaded into the vehicle in station order, as we call it, in order to permit any definite saving in time to be accomplished.

Q. Now, Witness, your answer so far is in relation to the manner in which the traffic was moved by truck, that came in, in just a single railroad car; is that correct?

A. Yes.

Q. From which it is moved into the truck.

A. Yes.

Q. But would the situation be any further complicated if the freight was brought into Fort Wayne in a number of cars?

A. Oh, yes.

Q. From a number of different points, arriving at different times from those different points, in a number of different trains.

A. Oh, yes, sir, it would be complicated just that many more times, or just that much more, because they might have freight for the same points in each car that comes in, perhaps half a dozen cars.

Q. Well, then, Witness, would it be possible to directly  
977 move less than carload traffic from a freight car into a truck, under any circumstances other than it might happen to be unloaded and loaded exactly in the station order that it was going to be delivered in, when the truck proceeded out along the highway.

A. Well, I can answer that question this way, that if the company did not operate in that manner, loading it in station order, then these schedules that have been set up here would not mean anything, not a thing.

Q. Well, now, Witness, they have not indicated much other than about one train—that is, they have only mentioned one train into Fort Wayne, as the record shows; but for the purpose of my question let us assume that there is going to be a number of trains over a period of 24 hours—

Mr. HARRY YOCKEY. Objection.

By Mr. CLARDY:

Q. Coming into Fort Wayne.

Mr. HARRY YOCKEY. Now, just a moment. I object to these remarks of Mr. Clardy, if the Joint Board please. They are more of an argument than they are a question, and furthermore, that is not a fact, that only one train into Fort Wayne was mentioned.

Mr. BARKELL. Well, of course, the record will have to speak for itself on that.

Mr. CLARDY. Your witness, in his direct examination, only mentioned one train, and when I tried to find out on cross-examination from him about the schedule of others, he could not give it to me.

978 Mr. EGGERS. For the purpose of his question, counsel is assuming that.

Mr. CLARDY. Yes.

Mr. EGGERS. And you may assume other than that.

Mr. CLARDY. Yes. I discussed that matter at considerable length with your witness on my cross-examination, and I am very sure the record will show that his testimony involved one train.

Mr. BARKELL. Well, let us proceed.

By Mr. CLARDY:

Q. Now, Witness, for the purpose of this question, we are going to assume that there are a number of trains coming into Fort

Wayne, with less than truckload merchandise in several of the cars in each one of those trains.

A. All right.

Mr. LINDSTRAND. Less than carload, you mean.

Mr. CLARDY. How?

Mr. LINDSTRAND. You mean less than carload freight, not less than truckload freight.

Mr. CLARDY. Yes.

Mr. LINDSTRAND. You said, less than truckload.

Mr. CLARDY. I am speaking of less than carload merchandise, destined to the intermediate points along the route.

Mr. LINDSTRAND. All right

By Mr. CLARDY:

974 Q. Now, Witness, do you know of any manner in which those various cars can be worked, and the freight transferred to the waiting trucks, without first working all of the cars, and sorting all of the freight out into proper station order, so that the last shipment to be delivered will be loaded into the truck first? If you know of any other way, I will ask you to describe it.

A. Well, there would be only one other way to accomplish that, and that would be to put on a truck for each car, a separate truck for each car.

Q. And regardless of the tonnage, attempt to operate a separate unit for each car that arrived?

A. Yes, sir; but of course that would not eliminate the handling and flooring of the freight in order to get it into proper station order on each truck, either.

Q. Now, Witness, assuming further, for the purpose of my question, that they are going to attempt to have 100 percent loading out-bound from Fort Wayne. Would that further complicate the problem, unless they handled it exactly in the manner in which you have described?

A. Well, from my experience, I do not believe that they would have sufficient tonnage to load their trucks 100-percent out-bound. I am referring again, now, to the tonnage that is being turned over to us by the Pere Marquette Railroad Company, for delivery at these small towns. That has led me to believe that they would not have sufficient tonnage to load their trucks 100-percent out-bound anymore then we would have.

980 Mr. HARRY YOCKEY. Now, just a moment. I want to move that that answer be stricken from the record as not being competent evidence. The answer was not responsive to the question, but I have no right to object to it on that ground. However, I do have the right to, and I do, object to it on the ground that it is not competent evidence. This witness has not been made com-

ent to testify as to what the traffic of The Pennsylvania Railroad will be.

Mr. CLARDY. The witness has been qualified, your Honor, by showing us the amount of traffic which moves to and from these small towns. On the basis of that, I submit, he can testify.

Mr. EGGERS. But does the witness, Mr. Clardy, know anything about these towns north of Fort Wayne, Indiana? I think, your question and the answer, were rather broad, there.

Mr. CLARDY. I am quite agreeable, your Honor, that the answer be confined only to those towns that he serves,—obviously.

Mr. EGGERS. All right.

Mr. CLARDY. I did not mean to apply it to the southern part of the railroad, because he would not have knowledge there.

Mr. EGGERS. All right.

Mr. BARKELL. Overruled.

Mr. HARRY YOCKEY. What is the ruling, your Honor?

Mr. BARKELL. The objection will be overruled. You may proceed.

By Mr. CLARDY:

Q. Now, then, Witness, so that we will get into the record the positive side of the picture: in running the affairs of your trucking company, just how do you handle freight that is brought in to you by a connecting line, or by a piece of equipment coming in from another line, on your own system? How do you physically handle that freight across the dock?

A. (No answer.)

Q. Do you understand what I am trying to get at?

A. Well, I believe I do; yes, sir, but I am just thinking of several different situations there. I do not know just exactly how to answer that question.

Q. My question, Witness, assumes that you are preparing, let us say, at Grand Rapids for a run between Grand Rapids and Muskegon, Michigan. You are preparing that truck, getting ready to load it. Now, how do you physically handle the incoming freight, which is going to be moved on that truck?

A. Well, that piece of equipment would be spotted at the dock, the same as a freight car would be, and the freight is taken off of that truck and placed on the floor of the warehouse until the truck was entirely unloaded. Then, we could tell from the manifest where the different shipments were going, what was going to the furthestmost point on the route, and so forth, and when that was determined, then the freight would be handled again, and loaded into the truck in proper station order, with the freight for the furthestmost point loaded in first; and then the truck would start from Grand Rapids and peddle to the small points in between there and Muskegon.



Q. And is the freight for the furthestmost point always loaded into the truck first?

A. Yes.

Q. So as to save time in unloading?

A. Yes, sir, it is, because those trucks are not very large, and there is no provision for space for the driver to work around in; and furthermore, there might be some very heavy pieces of freight, and he could not lift them, and put them on the other side of the truck every time he stopped.

Mr. BARKELL. Off the record a moment.

(Discussion outside the record.)

Mr. BARKELL. Now, back on the record. Pardon the interruption, Mr. CLARDY.

Mr. CLARDY. Yes, sir.

By Mr. CLARDY:

Q. Now, Witness you have testified that your company has made a similar arrangement with the Pere Marquette Railroad Company.

A. Yes.

Q. If the railroad company which is involved in this case, namely, The Pennsylvania Railroad, should ask your company to perform the service proposed in this application over that part of the routes which your company serves, would it take on that additional business?

A. Yes, sir; we certainly would; and we would be very glad to do so. We would be very glad to sit down with representatives of The Pennsylvania Railroad Company, and endeavor to work out schedules for service to the towns that we handle—or that we serve.

Mr. CLARDY. That is all with the witness on direct.

Mr. BARKELL. Cross-examine.

Mr. HARRY YOCKEY. We have no questions.

Mr. BARKELL. No cross?

Mr. HARRY YOCKEY. No, sir.

Mr. CLARDY. Thank you.

Mr. BARKELL. Just a moment, please.

Mr. EGGERS. There are a few questions that I want to ask you, Mr. Witness.

The Witness. Yes, sir.

By Mr. EGGERS:

Q. Now, in the first place, you say that you would be willing to sit down with representatives of The Pennsylvania Railroad Company—

A. We would.

Q. And endeavor to work out a schedule whereby you could handle this freight which they are now proposing to give to The Willett Company.

A. Yes, sir.

984 Q. Would your company be willing to handle that freight on the same schedules as are set out in applicant's Exhibit No. 4 here?

A. Yes, sir; we certainly would, if there was sufficient freight there to operate those trucks.

Q. Well—

A. That is, under the present orders that we have got to operate under.

Q. Well, would you then change your present schedule, or would you continue to run that—would you run this schedule in addition to your present schedule?

A. That would be in addition.

Q. In addition?

A. Why, yes, sir. If there was sufficient freight there, it would naturally be in addition. There would probably be enough freight there to put on two runs. If there is going to be enough for The Willett Company, I think I would be safe in assuming that there surely would be enough for another run for us.

Q. Well, now, you also testified that the schedule as set forth in applicant's Exhibit No. 4 here did not meet the requirements and needs of the shipping public. Now, then, with that in mind, would you still conform to that schedule?

A. Well, the schedule does not save any time. I do not say that it cannot be used, but the schedule as set up here would mean a delay of 24 hours in the delivery time. In other words, what

985 I mean to say is, that the schedule is all right if it is satisfactory to the shippers, if they do not care about that delay of 24 hours. We would not be able to operate that way, however, because the shipping public demands that the freight move the same day that we pick it up, and we attempt to work out our schedules along that line, accordingly. Take the schedule here leaving Kalamazoo at 11 o'clock in the morning, and the freight is not there, it is not ready, unless it happens to be gotten ready to move the day before.

Q. Well, then, if the schedule that is set up here is not so very good, as far as meeting the shipping public is concerned; that is, meeting the needs of the shipping public, in your opinion, is it true that you would have in addition to run your present schedule, regardless of the volume of the freight?

A. Well, we wouldn't be able to operate under this schedule—if I understand your question right—and at the same time continue to compete with other trucking competition.

Q. So that you would have to run both, then?

A. Yes.

Q. Both schedules..

A. Yes.

Q. Regardless of the volume.

A. I believe we would; yes, sir.

Q. All right.

A. In other words, if the railroad company, The Pehn-  
986 sylvania Railroad, demanded that this schedule be operated to meet their own trains, their own train schedule, why, then we would have to do it; yes, sir; we would have to operate it.

Q. All right. Now, I am just interested in one further point, I believe. Do I correctly understand that your only objection—or rather, the only reason why you believe that the applicant here cannot save The Pennsylvania Railroad from 24 to 48 hours, that they are setting up here in this proposed operation, is due to the fact that they could not put the first freight out of the car, right into the truck, as you have described it here?

A. Well—

Q. Is that the only reason?

A. If they loaded it that way—I tried to make myself clear before, but perhaps I didn't quite do so. If they do not load the freight in station order, they cannot possibly maintain these schedules. In other words, they only allow three hours and ten minutes, if I recall it correctly, between Grand Rapids and Kalamazoo.

Q. Well, then, I have only this one further question, Mr. Witness: if they would load the freight in station order, then are you of the opinion that they would save the time that they claim they would save?

A. No.

Q. Or what is your opinion on that?

A. No, sir; the time would not be saved that way.  
987 and it could not be. If they loaded in station order, they would have to handle it exactly the same as we do. They wouldn't save any time, because they would be handling it the same as we would handle it.

Q. In other words, then, that 24 to 48 hours would be lost—

A. Right.

Q. In arranging it in that order.

A. That is right.

Q. Is that the idea?

A. Yes.

Mr. EGGERS. All right. I believe those are all the questions. I have.

Mr. BARKELL. Is there anything further with this witness?

Mr. CLARDY. May I point out, your Honor, that you omitted in your questions one element that I brought in.

Mr. EGGERS. What was that?

Mr. CLARDY. That is, that the freight would not all come in on one train.

Mr. EGGERS. That is true.

Mr. CLARDY. There would be obviously more than one train, or there would not be anything to move.

Mr. EGGERS. Well, I believe you developed that pretty thoroughly.

Mr. CLARDY. I endeavored to.

Mr. BARKELL. All right. Are there any further questions of this witness; now?

Mr. HARRY YOCKEY. Nothing further.

Mr. CLARDY. That is all, thank you.

Mr. BARKELL. If there are no further questions, the witness is excused.

(Witness excused.)

Mr. BARKELL. Call your next.

Mr. DES ROCHES. If your Honor please, may we have just a very short recess at this time?

Mr. BARKELL. Off the record.

(Discussion outside the record.)

Mr. BARKELL. Back on the record.

Mr. HARRY YOCKEY. May I ask, Mr. Clardy, if we can have for the record the Interstate Commerce Commission certificate number, or numbers, of the company represented by the last witness who testified?

Mr. CLARDY. Oh, yes.

Mr. HARRY YOCKEY. So that we will have that information in the record.

Mr. BARKELL. I am sure Mr. Des Roches will be glad to furnish you that information.

Mr. CLARDY. Yes.

Mr. HARRY YOCKEY. You can just state it for the record. That is all I want.

Mr. CLARDY. Mr. Des Roches will give you that.

Mr. BARKELL. I may say, Mr. Yockey, that just at this moment Mr. Des Roches is attending another hearing before the Commission here, and when he comes back, I am sure he will take care of that.

Mr. HARRY YOCKEY. You say, Mr. Des Roches is attending another hearing?

Mr. BARKELL. Yes, he is, before this Commission; but he will not be detained very long.

Mr. HARRY YOCKEY. All right.

Mr. CLARDY. I am ready to go ahead and put Mr. McKay on, your Honor.

Mr. BARKELL. All right.

Mr. CLARDY. Mr. McKay.

DON R. MCKAY was sworn and testified as follows:

Direct examination by Mr. CLARDY:

Q. Identify yourself, sir.

A. Don R. McKay.

Q. Your residence?

A. My headquarters are at Detroit.

Q. By what company are you employed?

A. Interstate Motor Freight System, Inc. Our home office is located in Grand Rapids, Michigan.

Q. What is your position?

A. Assistant to the general traffic manager.

990 Q. You are engaged—or rather, your company is engaged in operations in interstate commerce, under authority from the Interstate Commerce Commission; is it not?

A. Yes.

Q. Your docket number is what?

A. MC 35628.

By Mr. HARRY YOCKEY:

Q. MC 35628?

A. Yes, sir; which became final at midnight of May 29, 1942.

By Exam. BRYAN:

Q. Do you mean by that, Mr. McKay, that the report and order became final, or that a certificate was issued?

A. A certificate was issued.

Mr. CLARDY. That was an order of the division, your Honor, on exceptions. The order was issued the fore part of the month, and had the effective date of the 29th.

Mr. HARRY YOCKEY. Is there not a petition pending at the present time by some eastern association?

Mr. CLARDY. It was filed by the Right Honorable John Norris about one day, I believe, before the 29th of May, and no action was taken thereon prior to the 29th by the Commission; so unless the proceedings are reopened, the order has now become final.

Mr. BARKELL. All right.

Mr. CLARDY. Mr. Reporter, protestants' Exhibit No. 20 for identification, please.

(Protestants' Exhibit No. 20, Witness McKay, marked for identification.)



991

By Mr. CLARDY:

Q. Now, Witness, I show you this document, that has been marked by the Reporter as protestants' exhibit No. 20 for identification, and I will ask you if that is not one of the advertising maps and shippers' guides that your company is distributing at the present time?

A. Yes, sir; that is correct. We call this our shippers' guide No. 15.

Q. And that document sets forth a partial list of the routes over which you operate, and the points over which you serve, does it not?

A. Yes.

Q. For the purpose of this proceeding, it delineates, I believe, the general outline of a route, or routes, between Fort Wayne, Indiana, on the south, and Petoskey and Traverse City, Michigan, on the north.

A. Yes.

Q. Your company has rights, under the order of the Commission just mentioned, to operate over the entire length of the routes represented—or embodied in this application, between Petoskey and Traverse City, Michigan, on the north, and Fort Wayne, Indiana, on the south; is that correct?

A. Yes, sir; that is right. We go up to Petoskey.

Q. And in addition thereto, you have the route requested here, between Grand Rapids and Muskegon; have you not?

A. Yes.

992 Q. I believe, however, Witness, that your company does not have the right to operate east from Cadillac over to Falmouth, and over through Lake City, and back to 131—or am I incorrect about that?

A. Well; we do operate over this route here [indicating], but we don't go over to Falmouth; no, sir.

Q. When you refer to "this route here," you are referring to what route, or to what points?

A. McBain—we make McBain out of Cadillac, and also Marion.

Q. But you do not operate into Falmouth?

A. No, sir.

Q. And in addition to the routes that are involved in this application, your company covers practically all of the important points in the state of Michigan, I believe; does it not?

A. I think we do; yes.

Q. And the routes that have been authorized to you by the recently issued order of the Interstate Commerce Commission cover in total, I believe, some 19 states and the District of Columbia; is that correct?

A. We have operating authority in 19 states; yes, sir.

Q. Now, Witness, with regard to the particular points that are embodied in this present application: starting at the south end, your company operates through schedules; does it not, between Fort Wayne, Indiana, and Grand Rapids, Michigan?

993 A. Yes, sir; that is correct. We operate through schedules, nonstop, and we also stop some of our trucks on the way through at South Bend, Indiana, and Kalamazoo, Michigan, for drop-offs, as we call them.

Q. And do you also have a number of peddle runs covering the route north from Fort Wayne, Indiana, to Sturgis, Michigan, and from Sturgis to Kalamazoo, and from Kalamazoo to Grand Rapids?

A. Yes:

Q. In serving the intermediate points in the case of less-than-truckload merchandise, is it the plan of operation of your company to serve those points; that is, the intermediate towns, by these so-called peddler schedule runs?

A. Yes, sir. That is the way we operate.

Q. But in connection with truckload business moving into any of these intermediate points, you operate directly to the towns themselves, do you not?

A. Yes, sir; directly to the towns themselves, and then they call the nearest terminal.

Q. Now, then, Witness, with regard to the amount of equipment which your company is operating at the present time, first, over its entire system, and next in the state of Michigan: will you tell us about that?

A. We are operating altogether approximately 2,600 outfits at the present time.

Q. And in the state of Michigan?

994 A. And in the state of Michigan approximately 300.

Q. Now, as to the operations which your company is carrying on at the present time, as compared with the operations it was carrying on a year ago: has there been any decrease in the total volume?

A. Yes, sir; there has been. Our less-than-truckload tonnage has dropped off approximately 20 per cent.

Q. And has that decrease in volume resulted in your having idle equipment in an increasing amount?

A. Yes, sir; I would say that it has. We do have some idle equipment right now.

Q. Well, in the state of Michigan, for instance, at the present time about how much equipment would you say is idle, and available for additional business, if such should be offered to you?

A. Last night at seven o'clock, we had 50 bottoms idle in the state of Michigan.

Q. Now, you have been present here, and have heard the general outline of the kind of service that is proposed in this application, is that correct?

A. Yes.

Q. I will ask you, Witness, if at the present time your company is conducting any similar operations for others?

A. Yes, sir, we are; and we started that operation on the 25th of May, just this last May.

Q. For whom?

A. The Pere Marquette Railroad Company.

995 By Mr. HARRY YOCKEY:

Q. That is, May of this year, did you say?

A. Yes, sir.

Mr. CLARDY. 1942.

The Witness. Yes, sir; under ODT order No. 1.

By Mr. CLARDY:

Q. Now, in the carrying on of these operations to which you have just referred, Witness, what points or over what routes, will you be called upon to serve?

A. At the present time we are spotting trucks at Greenville, Michigan, and peddling up route 66, up as far as Lakeview, and then over route 46 to 131.

Q. And in the carrying on of those operations, are you paralleling the lines of the Pere Marquette Railroad between the general points which you have just named?

A. Yes.

Q. Are you in the carrying on of those operations handling the freight from station to station—

A. Yes.

Q. Exactly as outlined in the instant case?

A. Yes, sir.

Q. By the way, Witness, are some, at least, of the stations you are serving, stations where there are no station agents on duty at the time that you reach those particular stations?

A. Yes, sir; that is true. A lot of them are closed, although I do not know exactly which ones those are just offhand.

996 here; and they are making arrangements to leave the key at a gas station, or give us a duplicate key to carry with us—

that is, that the driver can carry with him—because that same driver makes that run every day.

By Mr. EGGERS:

Q. A key to the freight house, do you mean?

A. Pardon me?

Q. When you refer to giving you a duplicate key, do you mean a key to the freight house?

A. Yes, sir.

Mr. EGGERS. All right.

By Mr. CLARDY:

Q. Now, Witness, you were present here when Mr. Duncan, the witness who preceded you, was on the stand, were you not?

A. Yes.

Q. And you heard his testimony, did you?

A. Yes.

Q. And did you also hear the testimony of the representative of one of the other carriers—I have forgotten at the moment, now, just which one it was—with regard to the fact that they also have such arrangements with the Pere Marquette Railroad?

A. Yes, sir.

Q. Do you know whether or not the Pere Marquette Railroad has made general arrangements with a number of other carriers, so that it has at the present time pretty well duplicated all of the operations embodied in this application?

997 A. Yes, sir. There was a meeting called in Detroit, and

also one in Grand Rapids, to which there were invited a number of carriers that cover the state of Michigan, and arrangements have been set up similar to the arrangements that we have, covering parallel routes with their operations, so that they can conform with ODT order No. 1.

Q. Very well. Now, I believe that under your direction you caused certain employees of your company to make some surveys of traffic, business and operating conditions all up and down the routes involved in this application; is that correct?

A. Yes.

Q. Would you give us for the record, please, the identity of those persons whom you had make that survey?

A. Mr. Piper, our manager at Kalamazoo, got the figures together from Kalamazoo to Sturgis; and Mr. Orth, our agent at Grand Rapids, worked on the route from Grand Rapids to Cadillac—that is, route 131.

Q. And have you both of the gentlemen named present here at this time?

A. Yes.

Q. To testify with respect to the details of that investigation?

A. Yes.

Q. Now, Witness, with regard to the over-all picture, about which they will later testify in some detail, can you tell me this first: with respect to operations particularly between Grand

998 Rapids, Michigan, and Fort Wayne, Indiana, is your company presently handling sufficient business, or receiving sufficient business, to enable it to operate to and from the intermediate points on that part of its routes, with its equipment loaded to anywhere near capacity?

A. We are operating full loads daily between those points.

Q. Between what points?

A. Between—

Q. Between the terminal points?

A. Between Fort Wayne and Grand Rapids.

Q. Well, now, Witness, my question had to do with the intermediate points, between those points.

A. Well, under this new ODT order No. 3, we will have drop-offs at those intermediate points.

Q. Well, now, just what do you mean by that, for the record?

Mr. BARKELL. Yes, what do you mean when you speak of drop-offs at the intermediate points?

A. Well, if we had a truckload of freight with a shipment in it that was consigned to Kalamazoo, of 5,000 pounds, we would load that 5,000-pound shipment on the rear end of the truck, and we would stop the truck at Kalamazoo, and drop off that particular 5,000-pound shipment there at Kalamazoo, and then we would pick up another 5,000 pounds from Kalamazoo consigned to Grand Rapids; and go on through.

By Mr. CLAUDY:

999 Q. Well, now, Witness, I see you misunderstood my question.

A. I am sorry.

Q. I am inquiring particularly now with regard to the small intermediate points.

A. Oh.

Q. And I will confine the question to those points that are on your route between Grand Rapids and Kalamazoo. Now, my question is as to the amount of tonnage that you are moving on your peddler run to those towns, as to whether or not that tonnage is sufficient in volume to give you a full truckload, or only a fractional part of a truckload.

A. During the last 10 days it has averaged approximately 8,000 or 9,000 pounds on the peddler run from Grand Rapids to Kalamazoo.

Q. Including freight destined to Kalamazoo?

A. Yes.

Q. And about how much of that freight would you say was involved to and from the intermediate points—or rather, to the intermediate points, if you can give us that?



A. On that route 131 down there, we would probably have approximately 3,000 pounds to deliver at those small intermediate towns.

Q. Has your company, because of that situation, been negotiating with other companies operating over that route, looking toward a consolidation of its tonnage with that of other carriers operating there?

1000 A. That is what we are going to have to do, yes, sir; in order to conform with ODT order No. 3.

Q. And those negotiations are being carried on at the present time, are they?

A. Yes, sir; that is correct; and as a result of that, I think that we will have to probably get rid of 150 peddler vehicles that we now have.

Q. Over the entire system?

A. Yes.

Q. That is, for the reason that you have just outlined?

A. Yes.

Q. Now, Witness, is the same factual situation true with regard to the intermediate points on the other parts of this route that we have just been discussing here?

A. Yes, sir; that is correct. From Grand Rapids to Cadillac we load the freight that is consigned to Traverse City and Petoskey, or any other points in the north, in the nose of the vehicle, and then we make the less-than-truckload deliveries on the way up; and when we get to Cadillac we have approximately 6,000 or 7,000 pounds of freight that we turn over at that point to the Parker Motor Freight, for delivery to Traverse City and Petoskey, or any other points that they might make, for which we have freight.

Q. And as to the intermediate points on that run, that you are now discussing, Witness, do you have about the same amount  
1001 of tonnage in the aggregate to those points, that you mentioned with respect to the route south of Grand Rapids?

A. About the same, yes.

Q. Now, with regard to movements between Grand Rapids and Muskegon, Michigan: do you serve the intermediate points on that part of the route with a peddler set-up also?

A. Yes, sir; we do—Grand Haven.

Q. Well, now, as to those intermediate points—excluding Grand Haven, because I do not believe Grand Haven is included in this application—although I want to be sure, however.

Mr. HARRY YOCKEY. It is not.

Mr. CLARDY. All right.

By Mr. CLARDY:

Q. Excluding Grand Haven, then, Witness, about how much tonnage daily will be moving into those intermediate points?

A. Well, at the present time we are running a small pick-up truck out there with about 4,000 pounds of freight on it.

Q. Is there any appreciable out-bound tonnage from any of the intermediate points south of Grand Rapids, between there and Fort Wayne, that you presently know of?

A. Not that we would not be able to handle with our own equipment at the present time; no, sir.

Q. Perhaps my question was not clear. I mean, at the small, intermediate points is there any appreciable outbound tonnage?

A. Well—

1002 Q. When you qualify your answer that way, I wish you would explain, please, what you mean.

A. (No answer.)

Q. In other words, Witness, are there some points that do have some out-bound tonnage? If so, will you mention them.

A. Well, there is one point there, that I can't recall the name of just at the moment, but Mr. Piper will testify concerning the amount of tonnage that is involved there.

Q. One out-bound movement?

A. Yes. ✓

Q. From one town?

A. Yes, sir. I don't know whether that is on route 131, or not, just offhand. I don't recall.

Q. And as to the balance of them—

A. As to the balance of them, the movement out-bound would be very small. I would say that it would not run over 2,000 pounds a week.

Q. And is the same thing true with respect to the northern run up to Petoskey, with the exception of Big Rapids?

A. Well, on our Grand Rapids-to-Cadillac operation, those are only points where we peddle freight intermediate. In other words, we give Parker Motor Freight—

Mr. EGGERS. Is he answering your question?

Mr. BARKELL. I do not think the witness is answering your question, Mr. Clardy.

1003 Mr. CLARDY. I see what he is getting at.

Mr. BARKELL. Can you be a little bit more specific?

Mr. CLARDY. I will ask him another question, so that we will understand,

By Mr. CLARDY:

Q. Witness, the points that you serve on the route north: are there any of them from which you get any appreciable out-bound volume of freight?

A. Above Cadillac?

Q. No; above Grand Rapids.

A. Up to Petoskey?

Q. Yes.

A. Oh, we get truckloads of fruit out of Traverse City.

Q. Well, is Trayerse City about the only point from which you get any appreciable amount of business out-bound?

A. Yes; that is all.

Q. And that is seasonal, is it?

A. Yes.

Q. Now, Witness, you started to say something about Parker Motor Freight, about your turning freight over to them. You did not finish your answer. What were you going to say?

A. Well, what I was going to say was this, that we only make peddle deliveries between Grand Rapids and Cadillac; and we do not have a sufficient volume of freight for us to go on north, so we turn all of that freight over to Parker Motor Freight, and we have been doing that for some time, now—

1004 Q. Because—

A. Under an interchange arrangement.

Q. Because the tonnage is so light.

A. That is right.

Q. Now, Witness, you have been present when we had our discussions with regard to the method of operation, and the schedules as proposed by the applicant here; is that correct?

A. Yes.

Q. Also you heard, particularly, the testimony of the last witness here, Mr. Duncan, the witness who preceded you, with respect to the manner in which freight would necessarily in his opinion have to be handled in order to efficiently furnish service—did you not?

A. I heard what he had to say; yes, sir.

Q. Is the description which Mr. Duncan gave of the physical manner in which trucks are loaded by transferring from one to another, typical of the way in which your company handles its business?

A. Yes, sir; that is correct; only we have such a large volume of business that it takes us longer than it would take him. Take, for instance, at Grand Rapids; we are running 120 trucks through there, and those trucks have to be pretty nearly all unloaded before they start out on those runs.

Q. If the railroad was operating with a considerable volume of business, with a lot of trains, what effect, if any, would that have on the schedules that have been proposed in this case, the manner of operating, and the claimed saving of  
1005 time?

Mr. HARRY YOCKEY. Just a moment. I object to the question, if the Joint Board please, for the same reason I gave a while ago; namely, that this witness is not a railroad man, and he has not been qualified as knowing anything about railroad operations.

Mr. CLARDY. I can qualify the witness, of course, if there is any question about it.

Mr. BARKELL. Suppose you do that.

By Mr. CLARDY:

Q. Suppose, then, Witness, so that there will not be any question about it, you identify yourself a little bit more in detail, and tell us what your transportation background of experience is.

A. I worked for railroads for quite a long time.

Q. Tell us something about that.

A. I worked for the Grand Trunk for a number of years; I also worked for the Pere Marquette Railroad; and also for the Central Inspection & Weighing Bureau, that audits all of the tonnage records in the state of Michigan.

Q. How long have you worked for motor transportation companies?

A. For about 10 years.

Q. Now, recurring again to my question, Witness: if The Pennsylvania Railroad freight was coming in on more than one train at any of the key points that have been mentioned here, what is your judgment as to whether or not the proposed schedules could be adapted to the operation, and adhered to, and a saving in time actually made?

A. My opinion would be that their operation would be much slower than ours, because they would have to move the cars to the warehouse, or to the freight house. They would not have the trucks available at the moment.

Q. You were here, were you not, Witness, when one of the preceding witnesses testified with respect to a movement from Berne, Indiana?

A. I don't believe so.

Y. Were you in the hearing room at that particular moment?

A. I don't recall it right now, Mr. Clardy, and I don't believe I was.

Q. Is your company in a position to, and would it, enter into with The Pennsylvania Railroad, the same sort of an arrangement that it presently has with the Pere Marquette Railroad, for the handling of freight over the routes which it serves, that are here involved?

A. Very glad to.

Q. Have you as yet heard any detail of the proposed operation, that differs from the arrangement that your company presently has with the Pere Marquette Railroad?

A. No, sir; I haven't heard anything that appeared to be different. It sounds about the same to me.

Q. Now, Witness, if The Pennsylvania Railroad should insist on the use of the proposed schedules as set out in applicant's Exhibit No. 4 here, would your company conduct such operations in the manner that the railroad wanted?

A. It would be glad to.

Q. If the tonnage that the railroad is proposing to tender to The Willett Company is not sufficient to justify the running of trucks under the present outstanding governmental orders, would you be in any different position than they are with respect to whether you could or could not run?

A. Why, no, sir; not a particle. They would not be able to run anymore than we would be able to run.

Q. And conversely, the same with yourself.

A. Yes.

Q. But assuming, now, Witness, that there is a sufficient volume of tonnage moving: your answer is that your company would operate such schedules; is that correct?

A. Yes, sir; that is correct. We would give them, in other words, any service that they would want, that was profitable—yes, sir.

Q. Now, is your present less than truckload tonnage over all of the routes here involved, down about the 20 per cent that you mentioned?

A. (No answer.)

Q. I think I asked you that question before only with respect to one particular operation. Does that apply to all of your operations?

A. Yes, sir; I would say so.

Q. They are down approximately 20 per cent?

A. 15 to 20 per cent.

Mr. CLARDY. That is all.

Mr. BARKELL. Cross-examine.

Cross-examination by Mr. HARRY YOCKEY:

Q. Mr. McKay, do I correctly understand that your testimony is the same, or in substance the same, as the testimony of the witness who testified immediately before you—Mr. Duncan, I believe it was—namely, that the schedules that are set up here, asked for by The Pennsylvania Railroad—that is, those that are set up in applicant's Exhibit 4 in this proceeding—do not conform to any of the schedules that are maintained by your truck line at the present time, over any of these routes?



Mr. CLARDY. I did not ask the witness about that, but—

Mr. HARRY YOCKEY. Well, I am asking him about it right now.

Mr. CLARDY. I suggest that you let the witness look at applicant's Exhibit 4.

The WITNESS. Did you ask me that question, Mr. Clardy?

Mr. CLARDY. No; I did not, Witness. I did not ask you anything about it.

Mr. HARRY YOCKEY. No, but—

1009 Mr. BARKELL. Now, just a moment, gentlemen. Let Mr. Yockey proceed with his cross-examination.

Mr. EGGERS. Are you objecting, Mr. Clardy?

Mr. CLARDY. That matter was not gone into by me with the witness on direct examination. However, I do not want to object to it. I am merely suggesting that the witness should be shown applicant's exhibit No. 4.

The WITNESS. Yes.

Mr. HARRY YOCKEY. That is all right.

Mr. CLARDY. Before he answers.

Mr. HARRY YOCKEY. Certainly. That is quite all right. If he wants to see it, by all means, let him look at it. I do not want to take any advantage of him.

Mr. CLARDY. Would you like to see that exhibit, Witness?

The WITNESS. Yes.

Mr. HARRY YOCKEY. Let him see it.

Mr. CLARDY. May we be off the record a moment, your Honor?

Mr. BARKELL. Off the record.

(Discussion outside the record.)

Mr. BARKELL. Back on the record. Proceed with the cross-examination.

By Mr. HARRY YOCKEY:

Q. In other words, Mr. McKay, the other witness testified that these schedules are not the schedules of the shipping public by truck, or what the shipping public by truck desires, and  
1010 that they do not conform to any of the schedules of his own company.

A. Yes.

Q. And that in order to comply with this kind of schedules, to meet the railroad freight train schedules, it would be necessary to put on a different operation.

A. Yes.

Q. Would that be true of your company also?

A. Why, as I stated before, we would be very glad to enter into an arrangement with your company, if the tonnage was sufficient, to operate over these routes—

Q. Well, now—

A. So that we would be able to conform to the ODT orders.

Q. I did not ask you anything about any ODT orders, Mr. Witness. My question was, and is: these schedules that are set up here are not the same schedules as your company maintains at the present time in its present operations, are they?

A. Oh, not right up to the minute; no, sir.

Q. How is that again?

A. Not right up to the minute; no.

Q. So that, then, in order to put in these particular schedules—or rather, if you did put in these particular schedules, they would be different from the ones that you now have; is that right?

A. Well, we would be glad to develop schedules for you.

Q. That still does not answer my question, Mr. Witness. I say, these schedules here are not the schedules which your  
1011 company is maintaining at the present time, are they?

A. Not right exactly to the hour, or to the minute, as I stated before; no, sir.

Q. That is what I say.

A. No, they are not.

Q. Well, now then, did I correctly understand you to say a moment ago that your company has 120 trucks coming into one of its terminals daily?

A. Yes.

Q. Which one?

A. Grand Rapids.

Q. By that do you mean—

A. We unload those trucks there.

Q. And do you transfer your freight to these other lines, the peddle lines that operate out of there, as well as the freight for delivery at Grand Rapids?

A. The less-than-truckload is broken there—yes.

Q. And that takes a considerable amount of time; does it?

A. About six hours.

Q. It takes you only about six hours—

A. Right.

Q. To make that distribution?

A. Yes, sir.

Q. Well, now are you acquainted in any manner with the operations of The Pennsylvania Railroad at Fort Wayne,  
Indiana?

1012 A. Well—

Q. That is, as to the number of trains that they have in there daily, for example?

A. No.

Q. Or the number of cars that they have come in on each of the trains that come in there?

A. No, sir.

Q. Or are you acquainted with the system that they maintain at Fort Wayne at the present time, regarding the breaking up of their trains?

A. No.

Q. Or the transfer of the freight to the local peddler runs?

A. They would probably be the same—

Q. No. Just a moment, now, Mr. Witness. I am asking you if you know.

A. No.

Q. You do not?

A. No.

Q. You have no knowledge of that whatsoever?

A. Right.

Mr. HARRY YOCKEY. That is all.

Mr. BARKELL. Is that all?

Redirect examination by Mr CLARDY:

Q. Witness, were your schedules over these routes set up to meet the convenience of the shipping public along these 1013 routes?

A. That is what we set them up for, that is what the schedules were set up for; yes, sir.

Q. You started to say something just now in response to a question that Mr. Yockey asked you, but you did not finish your answer. Out of your experience in the rail field—well, never mind that. Strike that out. You have heard a considerable amount of discussion here about the manner in which The Pennsylvania Railroad proposes to conduct this operation at the Fort Wayne end, have you not?

A. Yes.

Q. So that you do have some knowledge, at least, therefore, of what The Pennsylvania Railroad is proposing, as shown by the testimony that they have thus far produced, have you not?

A. Yes.

Q. Well, now, Witness, based on that, and based also on your own experience in the rail field, is there any difference in the way which they are going to shuffle their cars at the freight house, and the way in which other railroads, including the Pere Marquette Railroad, handle their traffic at the present time?

A. No, sir, I cannot see any. It looks to me as though they are going to handle it in the same way as the Pere Marquette Railroad in order to comply with the ODT orders.

Mr. CLARDY. That is all.

Mr. BARKELL. Are there any further questions?

1014 Mr. HARRY YOCKEY. Nothing further.

Mr. EGGERS. I believe I have just one question, Mr. McKay.

The WITNESS. Yes, sir.

By Mr. EGGERS:

Q. And that is this: does this arrangement which you say your company has in effect at the present time with the Pere Marquette Railroad Company, have in mind expediting the service of the railroad, or is it solely to take the waycars off the railroad; do you know?

A. Well, from our talks with Mr. Bowman, of the Pere Marquette Railroad Company, I would say that it is for both.

Q. For both.

A. Yes.

Q. I see.

A. And I think that they are very well satisfied, if I may add this, with our service.

Q. Do you happen to know if that arrangement has speeded up the railroad service to any extent?

A. I think it has.

Q. Of course, you have not had very much of an opportunity as yet to try it out, have you?

A. No, sir, we have not, but I have talked to the drivers, and we have got to be very careful about soliciting freight away from the Pere Marquette Railroad.

Mr. EGGERS: I am sorry. What was that last answer again, please, Mr. Reporter?

1015 (Answer read.)

Mr. EGGERS. That is all I have.

Mr. LINDSTRAND. Just one question, please.

Re-cross-examination by Mr. LINDSTRAND:

Q. Mr. McKay, were you present at the hearing in Indianapolis?

A. In this case?

Q. Yes.

A. No.

Mr. LINDSTRAND. That is all.

Mr. BARKELL. Is that all, now?

Mr. CLARDY. Just one further question, your Honor.

Redirect examination by Mr. CLARDY:

Q. Witness, you have had a great many conferences with me, and with others, about what took place at the prior hearing of this case in Indianapolis, have you not?

A. Yes, sir; that is true. I sent Mr. Heath down there, when I found out I was not going to be able to get down there myself.

Q. Yes. Heath was the one who came down there.

A. Yes. I sent him down.

Q. And you have had a rather full report of what took place at that hearing, have you not?

A. Yes.

Mr. CLARDY. That is all.

1016 Mr. BARKELL. If there are no further questions, the witness is excused.

(Witness excused.)

Mr. BARKELL. Call your next.

Mr. CLARDY. Mr. Devlin.

FRANK C. DEVLIN was sworn and testified as follows:

Direct examination by Mr. CLARDY:

Q. Your name, Witness.

A. Frank C. Devlin.

Q. Where are you located?

A. Kalamazoo, Michigan.

Q. By whom are you employed?

A. Keeshin Motor Express Co., Inc.

Q. How much experience, if any, have you had in the transportation field?

A. 21 years.

Q. Will you just give the Board and the Commission the high spots of where you have worked, and the particular line of business.

A. Well, I was with the New York Central Railroad, and the Missouri Pacific Railroad at Chicago; then I spent four years as an industrial traffic manager; and I have been nine years with Keeshin Motor Express Co., at Chicago, Illinois, Fort Wayne, Indiana, Kalamazoo, Michigan, and Cleveland, Ohio.

Q. You have been located in the territory that is involved 1017 in this application, then, for approximately how many years?

A. Six years.

Q. Have you, in the course of your experience, been engaged in soliciting traffic—

A. Oh, yes.

Q. As well as directing operations?

A. Yes.

Q. And has your solicitation included contacts with the public at Fort Wayne and Kalamazoo?

A. Yes, sir.

Q. As well as at various other points up and down this proposed operation?

A. Yes.

Q. In and through those contacts, have you been able, pretty well, to get an over-all picture of the shipping requirements of the public up and down that line?



A. I think so.

Q. Now, your company is engaged at the present time in operations over what part, or parts, of this proposed extension?

A. Well, we parallel in our operation The Pennsylvania Railroad from Fort Wayne, Indiana, to Grand Rapids, Michigan.

Q. And is that under and by virtue of an application filed by your company with the Interstate Commerce Commission?

A. Yes, sir.

Q. What docket number.

1018 A. I have got that right here. Just a moment.

Q. Let us have it.

A. C-4731 and C-1920. I have got the I. C. C. numbers also, but not right here with me. I will have to get them a little later and give them to you, if you want them.

Q. The numbers that you have just recited cover your Michigan authority; is that correct?

A. Yes.

Q. And you have a docket number assigned to you by the Interstate Commerce Commission, have you not?

A. Yes, sir.

Q. Or rather, two docket numbers; one under the name of Keeshin Motor Express Co., Inc.—

A. Yes.

Q. And one under the name of Dickens.

A. Yes.

Q. Dickens Motor Freight.

A. Yes, sir. I might just say, that No. C-1920 covers the Dickens Motor Freight authority, and No. C-4731 covers the Keeshin Motor Express Co. authority.

Q. You will secure the I. C. C. numbers during recess and give us those a little later, will you?

A. Yes.

Q. Very well. Now, Witness, does your company serve all of the points up and down this route between Grand Rapids,  
1019 Michigan and Fort Wayne, Indiana?

A. We have a service available; yes, sir.

Q. At the present time, how are you handling it?

A. Well—

Q. In other words, do you have peddle runs, plus other operations, or is the business handled on just one combination, or how?

A. Well, we have principally a through operation out of Fort Wayne up into this territory. We have no peddle run excepting between Kalamazoo and Grand Rapids, Michigan.

Q. Does the amount of tonnage which is available have anything to do with the reason why you do not have a peddle run south of there?

A. Yes, sir; it certainly does. There is not sufficient tonnage available for even one line to operate over that route at the present time.

By Mr. EGGERS:

Q. Let me ask you right there, Mr. Witness: do you solicit business along that route?

A. Between Kalamazoo and Fort Wayne?

Q. Yes.

A. Yes, sir, we do; truckload business.

Q. Do I correctly understand, then, that you are only interested in truckload business between those points?

A. Well, no, sir; not just truckload business. We will accept any freight along that line, any and all freight.

By Mr. CLARDY:

Q. Has the experience of your company, however, 1020 and your own experience, over the past several years, disclosed anything to you about the total amount of less-than-truckload business that is or is not available along that route?

A. Yes, sir.

Q. And that is—what?

A. Well, with the exception of Kendalville, Sturgis, and Three Rivers, there is very little less-than-truckload tonnage available at any of the points.

Q. And is that also true with regard to the in-bound tonnage to points other than those you have named?

A. Yes, sir; that is correct. It would be principally in-bound tonnage at the smaller points.

Q. Have you, or has your company—been in conference with representatives of some of the other companies, with respect to some proposed diversion of traffic from one company to another, in order to make up maximum loads over this route?

A. Oh, we have been doing that since May 15th.

Q. With some other line?

A. Yes, sir.

Q. Since May 15th of this year?

A. Yes, sir.

Q. Has some of the tonnage been diverted to you for certain points, and diverted from you to other carriers for certain other points?

A. Along this particular line, you mean?

1021 Q. Yes.

A. No, sir. We have diverted our tonnage to other lines along there—now, as I understand it, you are only speaking of these small towns.

Q. Yes.

A. You do not mean Grand Rapids.

Q. No.

A. Or Kalamazoo.

Q. No. I am only speaking of the intermediate points.

A. All right. That is right.

Q. Now, Witness, how many units of equipment does your company maintain in operation over its system at the present time?

A. 1,800 tractors, trailers, and straight jobs.

Q. And about how many of those are devoted to Michigan operations—or, I should say, Michigan and Indiana operations.

A. About 150 of each.

Q. Tractors and trailers?

A. Yes.

Q. Does your company at the present time have any idle equipment?

A. Yes.

Q. Have the presently existing conditions, brought on by the war, affected you, so that you have additional, idle equipment available, as compared with this same time a year ago?

A. Yes, sir; that is the situation, and particularly in connection with the less-than-carload—or rather, I should say, 1022 less-than-truckload traffic.

Q. What do you mean by that?

A. Well, what I mean is, that our less than truckload traffic has dropped off possibly 25 per cent in the period of the last four to six months.

Q. Now, I believe that you testified that your line between Grand Rapids, Michigan, and Fort Wayne, Indiana, parallels the line of The Pennsylvania Railroad; is that correct?

A. Yes.

Q. If The Pennsylvania Railroad should offer to—or rather, should make you an offer of the same type as described in the instant application, is your company in a position to, and would it, enter into a proper agreement with that railroad company?

A. Why, we would be required to do so, yes, sir.

Q. Would you be willing to do so?

A. Yes.

Mr. EGGERS. If I may interrupt you right there, Mr. Clardy.  
Mr. CLARDY. Certainly.

By Mr. EGGERS:

Q. You do not serve north of Grand Rapids along this proposed route, do you, Mr. Witness?

A. We do not with our own equipment, no, sir.

By Mr. CLARDY:

Q. You could operate over that part of the system which is described in their exhibits, since they have broken it down into parts, all the way from Fort Wayne, Indiana, to Kalamazoo, Michigan, and from Kalamazoo to Grand Rapids; is that correct?

A. Yes.

Q. If, as they propose here, that is broken at Kalamazoo into two, separate operations, are you in a position to, and would you, make two, separate operations for them?

A. Yes, sir; we would—that is, if there was sufficient tonnage.

By Mr. HARRY YOCKEY:

Q. What was that last answer?

A. If there was sufficient tonnage, I say.

By Mr. CLARDY:

Q. Well, Witness, that last answer of yours was bottomed on the ODT orders, I take it; is that correct?

A. Yes.

Q. All right. Now, Witness, you have some idea—I believe you were present at the original hearing, this case at Indianapolis. Am I right about that?

A. No, sir.

Q. Oh. You were not there?

A. No.

Q. Well, in any event, do you have some familiarity with the schedules as they have proposed them in their exhibit No. 4 here?

A. No, sir; I am not familiar with them.

Q. You have not seen them?

A. No.

1024 Q. All right. In connection with your operations between Fort Wayne and Grand Rapids, what other lines are you competing with at the present time, if any, for this particular business?

A. Well, there is Interstate Motor Freight System, Norwalk Truck Line Company, O. I. M. Transit Corporation, Holland Motor Express, and—well, now, I believe that is about all I can recall just at the moment. There are several others, however.

Q. Does Wolverine Motor Express operate in there?

A. Not into Fort Wayne; no, sir.

Q. They operate over the Kalamazoo-Grand Rapids portion of the route, do they not?

A. Yes.

Q. Do you find the competitive situation, especially in connection with less-than-truckload traffic, rather keen there at the present time?

A. Yes, sir; we do; and it is not only keen there right now, but it always has been.

Q. And has the outbreak of the war served to make that situation either worse or better?

A. Well, insofar as the less-than-truckload traffic is concerned, we naturally are putting forth greater effort, of course, by reason of the lack of tonnage; having in mind also the fact that even prior to that, there was not sufficient tonnage for all of the lines to operate 100 percent.

1025 Q. Now, with reference to these intermediate points particularly, going north of Fort Wayne, is there any point along there where there is any great volume of outbound traffic?

A. Kendallville would be the only point.

Q. Kendallville, Indiana?

A. Yes, sir.

Q. And about what kind of a volume of traffic, what sort of a volume, is offered out of that point?

A. Well, I wouldn't want to attempt to answer that question just offhand here, Mr. Clardy. There is possibly—you are speaking now of less-than-truckload freight, are you?

Q. Yes.

A. Well, there is possibly 18,000 to 20,000 pounds per day, approximately, I would say, going in all directions.

Q. Well, that is what I was going to ask you.

A. Yes.

Q. That is, not moving particularly over this route.

A. No.

Q. But fanning out, moving out in various directions.

A. Yes, sir; going in all directions. There is a very limited amount of tonnage, I would say, coming this way.

Q. And in the movements out of there, does a great deal of the traffic move in an east and west direction from Kendallville?

A. It moves principally to Chicago.

Q. Now, as to all of the other points intermediate— or  
1026 rather, the other points north of Fort Wayne, is there anything of any size in there at all, that generates or originates any amount of outbound business?

A. There isn't anything that I know of, no, sir; and I am very positive that there isn't.

Q. Now, referring to the in-bound traffic, is Kendallville again about the only point where there is any considerable inbound volume?

A. That is correct.

Q. And again, is that primarily a movement from Chicago?

A. I think most of it is; yes, sir.



Q. Your lines operate into Kendallville, both north and south, east and west, do they not?

A. Yes, sir; that is true. We operate over route 6 through Kendallville, and also north over 3, and part of 6, where we connect up with route 9, going up to Michigan.

Mr. CLARDY. Pardon me. Does your Honor desire to suspend at this time?

Mr. BARKELL. No. Go ahead and finish with the witness.

Mr. CLARDY. All right.

By Mr. CLARDY:

Q. Now, witness, how many operations per day are you carrying on at the present time between Grand Rapids, Michigan, on the north, and Fort Wayne, Indiana, on the south?

A. Well, we are operating three units per day between Kalamazoo and Grand Rapids; and from five to seven units per day between Kalamazoo and Fort Wayne. Now are you speaking of less-than-truckload freight only?

Q. I am speaking now of the over-all picture.

A. Well, that is our operation.

Q. That is your entire operation.

A. Yes, sir.

Q. All right. Now, how much of that service is presently required to handle all of the less-than-truckload business moving over that entire route?

A. Oh, we possibly would be able to handle it with one and a half units in each direction.

Q. One and a half units?

A. Yes.

Q. That would include service to and from Fort Wayne, Kalamazoo, and Grand Rapids, would it?

A. Yes, sir—on less-than-truckload tonnage.

By Mr. EGGERS:

Q. Is that what you are doing at the present time, Mr. Witness?

A. How is that?

Q. Is that what you are doing now?

A. Yes, sir; that is correct. That is, in other words, we are not running half a load of freight.

Q. No.

A. We are distributing it in a truckload.

By Mr. CLARDY:

1028 Q. But that is your best estimate as to what the daily average would run, is it?

A. Yes, sir—

Q. And it is because of that fact that you have entered into the negotiations that you have referred to.

A. Yes.

Q. For diversion of traffic to the other line.

A. Yes.

By Mr. EGGERS:

Q. Well, then, Mr. Witness, am I correct in understanding that you do not handle any less-than-truckload freight between Kalamazoo, Michigan, and Fort Wayne, Indiana, at the present time?

A. No less than truckload less than 5,000 pounds.

Q. None less than 5,000 pounds.

A. No.

Q. But anything that is 5,000 pounds, or over—

A. Right.

Q. You are handling?

A. Yes, sir; that is correct. We will deliver that off of a road unit, I might say.

Mr. CLARDY. Were you speaking, then, Your Honor—or did your question involve the point of Kalamazoo, or the intermediate points between Kalamazoo and Fort Wayne?

Mr. EGGERS. The intermediate points.

The WITNESS. Yes.

Mr. CLARDY. That is what I thought.

1029 Mr. EGGERS. Between those two points.

The WITNESS. That is the way I understood the question, and that is what my answer was predicated on.

Mr. EGGERS. Go ahead. Pardon the interruption.

By Mr. CLARDY:

Q. But considering the principal points of Kalamazoo on the one hand, and Fort Wayne on the other, the volume is about how much?

A. Oh, I would say, from a trailerload to a trailerload and a half of less-than-truckload freight.

Q. Per day?

A. Right.

Q. That is principally a north-bound movement; is it?

A. No, sir. It is the reverse with us.

Q. The other way.

A. Yes.

Q. Out-bound paper?

A. Some paper; yes.

Q. Well, now, maybe we had better get the complete picture there. Is there an unbalanced operation over your Grand Rapids-Fort Wayne route?

A. Yes.

Q. In which direction?

A. The light movement is north-bound from Fort Wayne.

Q. North-bound from Fort Wayne.

A. Yes.

1030 Q. Well, now, how does that compare relatively in percentage?

A. Well, I would say that about 65 per cent is south-bound, as against 35 percent north-bound, at the present time.

Q. It runs pretty close to 2 to 1, then—

A. Yes.

Q. In favor of the south-bound movement?

A. Yes.

Mr. CLARDY. That is all.

Mr. HARRY YOCKEY. Is that all of the direct?

Mr. CLARDY. Yes. Are there any questions?

Mr. HARRY YOCKEY. Yes.

Mr. BARKELL. Cross-examine.

Cross-examination by Mr. HARRY YOCKEY:

Q. Mr. Witness, starting at Fort Wayne, Indiana, and going to Kalamazoo, Michigan, your company operates how many trucks per day at the present time?

A. I stated previously, I believe, from five to seven units per day, depending, of course, upon the amount of tonnage that is available.

Q. Well, now then, when do those trucks leave Fort Wayne, and when do they get to Kalamazoo?

A. Oh, they will leave Fort Wayne at all hours of the evening and night, and arrive at Kalamazoo at all hours of the morning.

Q. They do not all leave at one time, of course, and they do not all arrive at one time.

1031 Q. When does the earliest one of them leave?

A. The earliest?

Q. Yes, sir.

A. Well, it may leave at around six o'clock at night.

Q. Six o'clock?

A. Yes.

Q. And from then on until what time do they leave?

A. Until around five o'clock in the morning.

Q. Then, those trucks operate—well, now, you do not have a peddler run over that route between Fort Wayne and Kalamazoo, do you?

A. We do have.

Q. Oh, you do have?

A. Yes, sir; and any freight that was going to be peddled would be on the last unit.

Q. Leaving at what time?

A. Well, that would depend entirely on the amount of freight that that particular driver had to peddle going north. He, of course, could not arrive at Kendallville, Sturgis, or Three Rivers before the places of business at those points were open.

Q. Would he arrive there after they were closed?

A. We would not dispatch anything after they were closed—no, sir.

Q. Well, then, what would you do with that freight?

A. Well—

1032 Q. Carry it on to Kalamazoo and then bring it back?

A. No, sir; we would not. I say, we would not dispatch it out of Fort Wayne if it was not possible to deliver it.

Q. Well, now then, I understood you to say that you do have a limitation of 5,000 pounds to the intermediate points along that route.

A. Well, no, sir; we do not have any limitation. I just say that at the present time we are handling it in that manner.

Q. Well, now, Mr. Witness, I understood the tenor of your previous testimony to be that you do have a limitation of 5,000 pounds to intermediate points along that route there. What did you mean by that?

A. Well, what I mean by that was, that is the present method of handling the freight. However, we are not limited to 5,000-pound shipments.

Q. Oh! Then do you mean over that, or under?

A. Under.

Q. Well, now then, are you actually carrying any less than 5,000 pounds—any shipments less than 5,000 pounds over that route?

A. We may at times; yes.

Q. Well, are you?

A. Well, I would say we are.

Q. You think you are?

A. Yes.

Q. Well, now then, in the movement north from  
1033 Kalamazoo—or rather, strike that out. In other words, coming back from Kalamazoo to Fort Wayne, what time do those trucks leave there—your night trucks?

A. Out of Fort Wayne?

Q. No, out of Kalamazoo.

A. Well, that would vary from six o'clock at night until around about—oh, possibly three o'clock in the morning.

Q. And those trucks arrive, then, for morning delivery at Grand Rapids?

A. How is that?

Q. Pardon me?

A. I thought you were asking me, in that last question, about the trucks moving from Kalamazoo to Fort Wayne.

Q. Yes. Coming back, what time do they arrive in Fort Wayne?

A. Out of Kalamazoo?

Q. Yes.

A. Well, it is not to exceed four hours and a half from the time they are dispatched. In other words, if they left at six o'clock in the evening, they would be in there at 10:30 at night; or if they left at three o'clock in the morning, they would be in there at six-thirty in the morning.

Q. Now, then, how about your operation north from Kalamazoo to Grand Rapids? When do your trucks leave there?

A. Kalamazoo?

Q. Yes.

1034 A. Oh, we have units leaving from Kalamazoo as early as five o'clock in the morning, and then we have another unit that leaves about 9:30 in the morning, and then we have still another one that leaves pretty close to noontime.

Q. Are either or any of those runs peddle runs?

A. They are drop-off runs.

Q. Do you have any 5,000-pound limitation on that route?

A. No, sir; we do not. We deliver freight in Plainwell and Wayland, Michigan.

Q. What is done with it there?

A. We deliver it.

Q. You deliver it?

A. Yes, off the unit.

Q. Well, now then, does that describe your operations north of Kalamazoo?

A. Yes.

Q. All right. Then, coming back, what time do the trucks leave Grand Rapids?

A. Well, there again that would depend on the volume of business that was available. In other words, they might leave there at four o'clock in the afternoon, but not later, I would say, than eight o'clock at night, approximately.

Q. From four in the afternoon until eight o'clock at night?

A. Yes.

1035 Q. Have you arranged those schedules over a period of time to suit the convenience of your patrons?

A. Why, I would say so, yes, sir; and also to conform with other schedules of the Keeshin Company.

Mr. HARRY YOCKEY. I believe that is all.



Mr. BARKELL. Mr. Clardy?

Mr. CLARDY. Nothing further.

Mr. BARKELL. Are there any questions up here?

Mr. EGGERS. No questions.

Mr. BARKELL. If there are no further questions, you may be excused.

(Witness excused.)

Mr. BARKELL. Mr. Des Roches, Mr. Yockey asked that you furnish him with the I. C. C. certificate number of Associated Truck Lines.

Mr. HARRY YOCKEY. I would like to have it for the last witness also.

Mr. CLARDY. We can put that in this afternoon, your Honor. We will have Mr. Duncan back again.

Mr. BARKELL. You can just furnish that to Mr. Yockey at your convenience.

Mr. HARRY YOCKEY. Yes.

Mr. BARKELL. How about protestants' exhibit No. 20, which was identified by Mr. McKay?

Mr. CLARDY. I offer protestants' exhibit No. 20 in evidence.

Mr. BARKELL. Is there any objection?

1036 Mr. HARRY YOCKEY. No objection.

Mr. BARKELL. There being no objection, protestants' exhibit 20 is received in evidence and made a part of this record.

(Protestants' exhibit 20, Witness McKay, received in evidence.)

Mr. BARKELL. We will recess at this time until 1:30 this afternoon:

(At 12:10 p. m., recess until 1:30 p. m.)

#### AFTERNOON SESSION

The hearing was resumed pursuant to recess. 1:30 p. m.

Mr. BARKELL. Come to order, please, gentlemen. Have you any further witnesses, Mr. Clardy?

Mr. CLARDY. Sir?

Mr. BARKELL. I was just inquiring if you still have some witnesses.

Mr. CLARDY. Oh, yes.

Mr. BARKELL. We are ready for them.

Mr. CLARDY. Mr. Betteridge.

GEORGE BETTERIDGE was sworn and testified as follows:

Direct examination by Mr. CLARDY:

Q. Your name, Witness?

A. George Betteridge.

Q. Where do you reside?

1037. A. Petoskey, Michigan.

Q. By whom are you employed?

A. Parker Motor Freight.

Q. In what capacity?

A. Traffic manager.

Q. You have some knowledge, then, I take it, of the extent of the operations and business of your employer?

A. Yes.

By Mr. HARRY YOCKEY:

Q. I am sorry, Mr. Witness, but I did not get the name of your company.

A. Parker.

Mr. CLARDY. Parker Motor Freight. This is the gentleman to whom Mr. Parker referred this morning, when he was on the witness stand; or rather, I should say, yesterday morning—who would be better able to testify about certain phases of the situation than he himself.

Mr. HARRY YOCKEY. Oh, yes.

By Mr. CLARDY:

Q. You answered my last question, I believe, that you do have such information about the business of Parker Motor Freight.

A. Yes.

Q. In preparation for this particular hearing, however, Witness, have you reinforced your general knowledge with some special checkups as to the amount of business that your company may have been handling to and from the various points that it serves?

1038. A. Yes.

Q. Would you tell us whether or not any of the towns which you serve are offering you any amount of out-bound freight, that is, freight moving to points off of your line in interstate commerce at the present time?

A. I am sorry, but I kind of got lost on the first part of that question. Will you say it again.

Mr. CLARDY. Read it, please.

(Question read.)

A. Yes.

By Mr. CLARDY:

Q. What points?

A. Petoskey and Traverse City.

Q. Are those the only points that have any of that character of movement?

A. Yes.

Q. And is that out-bound movement a truckload movement, or a less-than-truckload movement?

A. Both.

Q. Both truckload and less-than-truckload.

A. Yes.

Q. All right. Now, Witness, confining my next question to the less-than-truckload portions of the traffic; does the volume of out-bound less-than-truckload traffic from either one of those towns run into any great figure? If so, would you give us, please, some estimate of about what it would run per day, per week, or 1039 per month?

A. Well, Petoskey, now, on the less than truckload business, is running three bottoms—three semitrailers.

Q. Well, now, that is on both intrastate and interstate traffic, is it not?

A. Right.

Q. About how much of that would move in interstate commerce?

A. 80 to 85 per cent.

Q. Does that move principally toward Chicago?

A. Indiana and Illinois.

Q. Combined.

A. Yes.

Q. Very little of it moves toward the east; am I correct about that?

A. Very little.

Q. All right. Now, at the present time, Witness, you are interlining that freight with other motor carriers, are you?

A. Yes.

Q. At some point.

A. Yes.

Q. And that point is Grand Rapids, is it?

A. Yes.

Q. Now, witness, with those two points excluded, is there any appreciable tonnage, any amount of tonnage moving out-bound from any of the rest of the towns that you serve?

1040 A. With those points excluded?

Q. Yes.

A. No.

Q. Taking all of the tonnage from all of the rest of the towns in the aggregate, about how much would it average per day, per week, or per month?

A. Less than five per cent.

Q. Of the total tonnage?

A. Yes, sir.

Q. That is, as compared with this amount which you just gave?

A. How?

Q. About five per cent. of the amount which you just gave.

A. Yes.

Q. All right. Now, in connection with the inbound movement, which town or towns get the bulk of the less than truckload business moving in interstate commerce, and handled by your company?

A. Petoskey and Traverse City.

Q. So that those two towns are about the only towns, either out-bound or in-bound, of any importance, are they?

A. Right.

Q. Well, now, referring to the inbound traffic, and dealing only with interstate commerce, less than truckload, about what does that average per day, per week, or per month?

A. Well, it is running right now, I will say, one bottom of 1041 less-than-truckload freight.

Q. Per day?

A. Per day, to each point.

Q. Very well. Now, still referring to the in-bound movement, as to the remainder of the points on your route, how would that less-than-truckload, interstate tonnage compare with this amount which you have just mentioned?

A. I would say about five per cent.

Q. So that, aside from those two towns, neither the out-bound nor the in-bound tonnage amounts to very much in pounds, does it?

A. Right.

Q. Up to the present time, have any of these intermediate points, if you know, been in the midst of any preparation to increase the amount of tonnage either out-bound or in-bound, in any way that you know of?

A. No.

Q. Has the condition which you have referred to there been pretty generally in existence over the past several years?

A. Yes.

Q. Now, Mr. Parker, as I recall it, testified that you interline a great deal at Grand Rapids?

A. Yes.

Q. You also interline, do you not, at other points along the way?

1042 A. Well—

Q. Particularly at Cadillac.

A. Not in interstate commerce; no, sir.

Q. That is primarily in connection with intrastate commerce, is it?

A. Yes, sir.

Q. All right. Now, with regard to the effect of the outbreak of the war: has that affected your business at all?

A. It has our in-bound less-than-truckload business; yes.

Q. What affect has it had?

A. Well, the effect has been that there has been a drop, I would say, of between 40 and 50 per cent.

Q. 40 or 50 per cent?

A. 40 to 50 per cent.

Q. Now, the out-bound traffic being so small, has there been any noticeable effect on that—or just what is the situation?

A. Why, there has been an increase as far as the out-bound traffic is concerned.

Q. To what do you attribute that?

A. That is due to the war condition, I would say.

Q. But even with that increase, is it still more than just a relatively few pounds per day?

A. Well—

Q. Still excluding now, of course, the two main towns, which you have mentioned, of Petoskey and Traverse City, Michigan.

1043 A. There has been no increase there at all; no.

Q. Do you mean by that, no increase at the small towns?

A. No.

Q. At the intermediate points?

A. No.

Q. All right. Now, referring again to the 40 to 50 per cent decrease, which you have had in your less-than-truckload business: Has that necessitated any change in your schedules, or any decrease in the number of units which you may have operated over the system?

A. No.

Q. Has it merely resulted, then, in a reduction in the percentage of loading which you are able to effect on the schedules which you have operated?

A. Yes, sir.

By Mr. BARKELL:

Q. Right there. Witness, do you mean to say that with a 40 to 50 per cent decrease in business, you are still operating the same number of vehicles over your route that you did before?

A. Yes.

By Mr. CLARDY:

Q. Will you explain why?

A. Because, as I stated just now, the out-bound tonnage has increased considerably, and there must be equipment available to



handle that out-bound tonnage, and therefore the equipment has to run into Petoskey in order to handle the out-bound freight.

1044 Q. Has that increase in your out-bound movement been principally to other Michigan points, however—

A. No.

Q. So that it would be intrastate commerce?

A. No; it is interstate.

Q. Interstate.

A. Yes.

Q. Destined primarily to the Chicago area, also?

A. Yes.

Q. By the way, Witness, do you have some arrangement covering the interchange of equipment with some carrier at Grand Rapids?

A. Yes.

Q. Do you use that arrangement in connection with your less-than-truckload movement, or is it all a transfer proposition?

A. No, sir; it is not a transfer proposition.

Q. You are loading, then, so that you may interchange the bottoms with some other carrier, are you?

A. Yes.

Q. Is the business that your line enjoys in that area greater at one period of the year than at another—

A. Yes.

Q. Or does it average about the same from one day, one week, or one month, to the next?

A. No, sir; it is seasonal.

Q. And is that caused by reason of the fact that that is  
1045 very largely a resort section of the country?

A. Yes.

Q. Is it customary, then, that that increase takes place in the summer, or the resort season, or times of the year?

A. Yes, sir.

Q. Well, now, Witness, has the usual time passed for that in-bound increase that is normally to be experienced, or expected by your company at this time of the year?

A. Read that question, please.

Mr. CLARDY. I will rephrase it.

By Mr. CLARDY:

Q. We are now just starting the month of June.

A. Yes.

Q. Referring to the increase which is caused by the resort season starting: has the time of year been reached as yet this year, when that increase, if any, would be felt by your line in its movement in-bound?

A. It should start now; yes, sir.

Q. However, what has been your experience up to this moment with regard to the expected increase—or rather, the normal increase—that comes to your line about this time?

A. Well, right at the present time it does not look as if we are going to get any increase.

Q. You were present here yesterday, were you not, Witness, when the witness Buck testified concerning the decrease in population in the area that you served?

1046 A. (No answer.)

Q. Or were you present in the hearing room at the time that witness was giving his testimony?

A. I don't recall it right now, and I don't believe I was; no, sir.

Q. Very well. However, in any event, what has been your own experience, and what is your present knowledge with respect to the population trend, either up or down, in the area which you serve?

A. It is staying pretty close to normal, I would say, or pretty close to what it generally is right now.

Q. Right now.

A. Yes.

Q. At this time of the year has it in the past been customary for an increase in the population to take place?

A. Yes.

Q. Which was maintained during the summer months.

A. Yes.

Q. But that has not started as yet?

A. Not yet.

Q. Now, Witness, Mr. Parker, when he was on the stand here yesterday morning, gave some general testimony about the nature of your operations, and the way in which you conduct them, but I want to ask you one or two specific questions further along that line.

A. Yes, sir.

1047 Q. In serving the intermediate points north of Grand Rapids, where there is apparently, from your testimony, very little business, are you handling those points—or serving those points on the truck that goes all the way through from Grand Rapids to destination—

A. No.

Q. Or do you have a separate peddler set-up of some kind?

A. We have a peddler set-up.

Q. And does that peddler set-up also handle business starting at the origin point, and going clear through to the destination point, as well as dropoffs at the various stations along the way?

A. He handles freight through to final destination; yes, sir.

Q. Now, in connection with some of these intermediate points, are there periods of time when there will be no movement, either in-bound or out-bound, over a considerable length of time?

A. (No answer.)

Q. In other words, Witness, is the movement so small at some of the points, that it reaches the zero point—

A. Yes.

Q. Over a period of time?

A. Yes.

Q. At some of these points that are involved in this application, then, do you encounter long stretches of time when there is no service of any kind required?

1048 A. Well—

Q. That is, either in or out?

A. I don't understand just exactly what you have in mind, when you refer to long periods of time.

Q. Well—

A. How long do you mean?

Q. Well, what is the fact? Say, over a period of days, or weeks, perhaps.

A. Oh, there are some days when there is no freight moving either into or out of these intermediate towns. Yes, sir; that is correct.

Mr. CLARDY. That is all.

Mr. BARKELL. Cross-examine.

Mr. HARRY YOCKEY. No questions.

Mr. BARKELL. Are there any further questions of the witness?

Mr. EGGERS. I have no questions.

Mr. BARKELL. If there are no further questions, the witness is excused.

(Witness excused.)

Mr. BARKELL. Call your next.

Mr. HARRY YOCKEY. Just so that we will not forget it, may I inquire of counsel if those I. C. C. docket numbers are available now?

Mr. CLARDY. Yes, sir; we now have the I. C. C. docket numbers.

1049 Mr. HARRY YOCKEY. To save time you may just state them into the record yourself, Mr. Clardy.

Mr. CLARDY. For Keeshin—pardon me?

Mr. HARRY YOCKEY. Just read them into the record yourself. You do not need to recall the witness.

Mr. CLARDY. If I knew what they were I would. Just give me a moment here until I get them.

Mr. HARRY YOCKEY. Pardon me.

Mr. CLARDY. The I. C. C. docket numbers are: MC 3566—

Mr. HARRY YOCKEY. MC 3566?

Mr. CLARDY. Yes—and MC 3567.

Mr. EGGERS. Which company is this?

Mr. CLARDY. Keeshin.

Mr. HARRY YOCKEY. Keeshin?

Mr. CLARDY. Yes. You are not interested, I take it, in the Indiana P. S. C. I. numbers, are you?

Mr. HARRY YOCKEY. No.

Mr. CLARDY. Or do you want that information also?

Mr. HARRY YOCKEY. Oh, no; I do not care for that. All we want are the I. C. C. numbers. Now, how about Associated Truck Lines?

Mr. CLARDY. Mr. Des Roches will give you that.

Mr. DES ROCHES. The I. C. C. docket number of Associated Truck Lines is MC 69833.

Mr. CLARDY. Now, your Honor, may we be off the record 1050 for a moment?

Mr. BARKELL. Off the record.

(Discussion outside the record.)

Mr. BARKELL. Back on the record:

Mr. CLARDY. Now, gentlemen, we have Mr. Parker here, and we will tender him to you for cross-examination, if any, at this time.

Mr. HARRY YOCKEY. You are not going to examine him any further on direct?

Mr. DES ROCHES. We have no further questions.

Mr. CLARDY. Not of Mr. Parker.

Mr. HARRY YOCKEY. We have none.

Mr. BARKELL. How is that?

Mr. HARRY YOCKEY. No cross-examination.

Mr. BARKELL. All right.

Mr. CLARDY. We can get rid of Mr. Parker in a hurry, then.

Mr. BARKELL. Yes. Let us have the next witness, then, Mr. Clardy.

Mr. CLARDY. Will you take the stand, please, Mr. Orth?

J. B. ORTH was sworn and testified as follows:

Direct examination by Mr. CLARDY:

Q. Your name, Witness.

A. J. B. Orth.

Q. Where do you live?

1051 A. Grand Rapids.

-Q. Michigan?

A. Yes, sir.

Q. I believe you are employed by Interstate Motor Freight System.

A. Yes.

Q. Your duties with that company, among other things, include solicitation; do they not?

A. Yes.

Q. And a general investigation into traffic moving or to be moved over that line?

A. Yes, sir.

Q. How long have you been with the company?

A. About seven years.

Q. Your principal office, or station, is at Grand Rapids; is it?

A. Yes, sir.

Q. Over the period of time during which you have been employed by Interstate Motor Freight System, have you been pretty constantly in touch with the shippers and receivers of freight over the lines radiating out of Grand Rapids?

A. Yes.

Q. Have you recently at my suggestion, made some additional check-up and investigation up and down your lines with respect to the general traffic conditions that exist in the various towns that you have been acquainted with during the past seven years?

A. Yes.

1052 Q. Well, now, Witness, looking, if you will, at the map, a copy of which you have before you there: let us start at Grand Rapids first, and give consideration to the towns south of Grand Rapids. I wonder if you would tell us whether or not your recent special investigation has brought you into contact generally with the shippers at the various towns, both the termini points, and the intermediate points, between the termini points, such as—well, let us say, Sturgis, for the moment.

A. Between Grand Rapids and Kalamazoo.

A. Between Grand Rapids and Kalamazoo?

A. Yes, sir.

Q. That is, you handled the checkup only that far south?

A. Yes, sir; to and including Plainwell.

Q. I believe also in addition to that, you investigated in various towns that you serve to the north of Grand Rapids; is that correct?

A. Yes.

Q. And toward Muskegon?

A. Yes, sir.

Q. All right. Now, Witness, based upon your experience and knowledge gained during the last several years, and also on the checkup and survey which you have recently made, would you tell us whether or not at the present time there is any appreciable out-bound tonnage moving from any of the intermediate points anywhere along the route where you made your investigation?



1053 A. As far as any southbound movement is concerned, there is nothing to speak of; no, sir. But as far as a northbound movement is concerned, there is some movement out of Big Rapids—on defense.

Q. Is that traffic moving in intrastate commerce or interstate commerce?

A. Mostly interstate.

Mr. EGGERS. Mostly what?

Mr. HARRY YOCKEY. Intrastate?

Mr. CLARDY. Interstate.

The WITNESS. Mostly interstate.

By Mr. CLARDY:

Q. Is that movement, however, a less-than-truckload movement, however, or a truckload movement, Witness?

A. The bulk of it is truckload or carload.

Q. Is the plant that you referred to a moment ago, the Hanchett Manufacturing Company?

A. Yes, sir.

Q. Now, that movement interstate, so far as the less-than-truckload movement is concerned: is that of any size? If it is, can you give us some definite idea as to about what it is?

A. Outbound, very little.

Q. Less than truckload?

A. Very little less than truckload,

Q. All right. Now, let us direct our attention, Witness, to the in-bound movement, with regard to all of these same  
1054 points. What did your investigation reveal, if anything, with respect to the in-bound movement to the intermediate points on these routes that you have just mentioned?

A. As to what, specifically, please?

Q. I mean, as to the amount or volume of tonnage moving into or out of those intermediate points.

A. Well—

Q. Both north and south of Grand Rapids?

A. Taking the intermediate points south of Grand Rapids, to and including Plainwell, Michigan, there would be approximately a daily average of 5,000 pounds.

Q. Taking all of those towns together?

A. Yes, sir.

By Mr. EGGERS:

Q. Pet—what?

A. Pardon me?

Q. Is that per day?

A. Yes, sir.

Mr. EGGERS. All right.

By Mr. CLARDY:

Q. And what would you say would be the average over the routes to the north, which you are serving?

A. We cover the route from Grand Rapids to and including Big Rapids as a peddler route, and that totals about 30,000 pounds. Two-thirds of that, approximately, would be inbound.

Q. Well, now, Witness, are you including both truckload and less than truckload traffic in that figure?

1055 A. That would be less than truckload.

Q. Less than truckload?

A. Yes, sir.

Q. And does the bulk of that go to the single point of Big Rapids?

A. Yes.

Q. Now, as to the balance of the towns taken together, about how much of that 30,000 pounds would be represented?

A. About one-third.

Q. Approximately 10,000 pounds?

A. Yes, sir; and out of that 10,000 pounds, the bulk of it probably would be to Rockford.

Q. The town of Rockford?

A. Yes, sir.

Q. Now, Witness, in making your investigation, do I correctly understand that you went far enough to find out something about the population of each of these towns?

A. Yes; approximately.

Q. And the total number of shippers and receivers of freight at each one of them?

A. Approximately; yes.

Q. And your investigation gave you some definite figures as to the number of shippers and receivers of freight specifically, did it not?

A. Yes.

1056 Q. Now, did you, in making the investigation, also have some contact with some of the witnesses who were produced by the applicant at the original hearing in this case, from these various points along the way?

A. Yes.

Q. You interviewed a number of those witnesses, did you?

A. Yes.

Q. And you do not mean by that, do you, that they were the only ones?

A. No.

Q. You interviewed all of the witnesses in all of these towns, did you not—or rather, I mean to say, all of the shippers in all of these towns?

A. Why, I wouldn't just say all of them; no, sir.

Q. Well, about what percentage of them, then, in the various towns, did you interview?

A. I would say from 50 to 75 percent.

Q. All right. Now, Witness, in interviewing that number of shippers, did you particularly single out the shippers who would have the largest volume, or somewhat the largest volume, moving into or out of those particular towns?

A. In great measures; yes, sir.

Q. Now, with regard to particular witnesses who were presented by the applicant here, do you have some recollection as to the identity of those whom you interviewed, or some of those  
1057 whom you interviewed?

A. Yes.

Q. All right. Starting, then, at—well, starting at any point that is convenient to you, taking some town immediately south of Grand Rapids, what was the first point at which you interviewed a witness who has been presented by the applicant here?

A. Well, I don't just recall the names of the witnesses in the particular towns south there.

Q. Well, do you have with you here some memorandum of the identity of the witnesses whom the applicant has presented, whom you did interview—

A. Yes.

Q. Without regard to what particular town they were from?

A. Yes.

Q. All right. Would you proceed, then, Witness, to take them up in the order in which you have them in the memorandum which you have there, and give us the name of the first witness whose name appears in that memorandum?

A. I am very sorry, Mr. Clardy, but I do not have the south list. I only have the list from Grand Rapids north.

Q. From Grand Rapids north.

A. Yes.

Q. Well, let us take that one first, then, and we will get the other in just a moment.

1058 A. All right.

Q. Just go ahead.

A. I interviewed Mr. John M. VanSchelven, of the VanSchelven & Rau Hardware Company at Cedar Springs, Michigan.

Q. Cedar Springs, did you say?

A. Yes.

Q. Did you, in your interview with that gentleman, ask him something with respect to his appearance and his testimony at the original hearing in this proceeding?

A. Yes.

Q. In particular<sup>ly</sup>, what, if anything, did you find out with regard to the connection, if any, between that particular witness, and either The Pennsylvania Railroad, or The Willett Company, the applicant here?

MR. HARRY YOCKEY. Well, now, just a moment. I think counsel is going entirely too far afield now, if the Joint Board please. We have sat here for some time, now, listening to testimony which we do not believe has any probative value here, and now we are getting to the place where counsel is attempting to do something indirectly that he could not do directly. This witness, and all of the other witnesses, were on the witness stand in this proceeding, and counsel for protestants had ample opportunity to cross-examine them.

MR. CLARDY. No; these are witnesses with respect to whom we had the stipulation.

1059 MR. HARRY YOCKEY. Well, that does not alter the situation a particle. Their testimony is just exactly the same in the record. They were here, and they were sworn, and there was a stipulation entered into, as to what their testimony would be if they were put on the witness stand, and testified.

MR. CLARDY. That is right.

MR. HARRY YOCKEY. Now, then, if they have gone out and interviewed these witnesses on the side, no matter who they may be, but particularly those witnesses who were in attendance at the former hearing, and available for cross-examination, this testimony could be nothing but hearsay. If they have gone out and talked to them, outside the presence of the Joint Board and Examiner, and outside the presence of counsel for the applicant, this testimony would be purely hearsay, and nothing else, and highly improper on that ground. It leaves us in no position to refute in any way what might have been done, or said. As I say, they had ample opportunity to cross-examine these witnesses when they were here. The matter is so plain, if your Honors please, that I do not think it needs any argument. I object to the question on the ground that it calls for hearsay testimony.

MR. CLARDY. Your Honor, the time-honored rule of hearsay does not cover an instance in which either a party to a proceeding, or a witness in a proceeding, says anything off the record, or at any other time, that deals with the issue involved, that will in any way attack or affect the credibility of anything that he may have said when he was before you. In this instance these witnesses were produced, but their testimony covered by a stipulation. The witness now on the stand, as he has testified, made an intensive investigation of the shippers generally up and down the line, including those whom he could reach—that is, not all of them, but including those whom he could reach. It is

important that we show, as we can show by the testimony of this witness, the connection of those witnesses, both past and present, either with The Pennsylvania Railroad Company, or The Willett Company, the applicant here; for the purpose of demonstrating to the Commission the reasons why they appeared in the proceeding, and the reasons why they testified. We have gone to a considerable amount of trouble, time, and expense to get this information. It is certainly material, and it is not covered by the hearsay rule, because it is the best-recognized exception to the hearsay rule, that all of the law books agree upon.

**Mr. HARRY YOCKEY.** If the Board please, I defy counsel for protestants to show me anything in any law book which states that that is an exception to the hearsay rule. I object to the question for the additional reason that it is for the purpose of impeachment of the particular witness, and the same would apply as to any other witnesses, with respect to whom a similar question is asked; and the law provides the manner in which that shall be done. The witness himself must be produced, and 1061 the foundation for impeaching him must then be laid, by asking him the proper questions; so if they are seeking to refute the testimony of this witness, let them call the witness back here, and put him on the witness stand, and ask him the impeaching questions in the proper way as provided by law. Then we will have him here, and he will be subject to cross-examination.

**Mr. CLARDY.** Well, now—

**Mr. HARRY YOCKEY.** Just a moment.

**Mr. BARKELL.** Let counsel finish.

**Mr. HARRY YOCKEY.** But for them to go out and claim to have interviewed a witness, whether his testimony has been covered by stipulation or otherwise, and then try to prove something by this witness, affords us no opportunity whatever for proper cross-examination, and affords the Joint Board and the Commission no means of knowing what may or may not have been said or done; and I submit, that is very highly improper. The mere opportunity to cross-examine this particular witness is not sufficient.

**Mr. CLARDY.** Just a moment.

**Mr. HARRY YOCKEY.** For all of the reasons stated, I object to it.

**Mr. CLARDY.** Just a moment. We have not said that we are impeaching any specific statement made by that witness. We are developing through this witness matters that come under either the classification of admissions against interest, or statements 1062 that are being used by us to attack the credibility of witnesses, in statement that they have made; and that is always competent. It will show bias and prejudice on the part of this witness, and other witnesses, because we will develop testimony from these witnesses as to their past connections, and—



Mr. EGGERS. I think this should be off the record.

Mr. BARKELL. Yes; off the record, Mr. Reporter.

(Discussion outside the record.)

Mr. BARKELL. Now back on the record. The opinion of the Joint Board, Mr. Clardy, is that the objection should be sustained.

Mr. CLARDY. Thank you, your Honor. Then I want to make a detailed offer of proof, because I regard this as very important, and I want to have the assistance of the witness here in making it. I would like to have him first name—or rather, I would like to make a statement in a separate part of the record here, as to what his testimony would have been with respect to each of those witnesses, had he been permitted to testify.

Mr. HARRY YOCKEY. Oh, now, if the Board please, I want to object to this manner of making an offer of proof. If counsel wants to make an offer of proof for the record, let him do it in the usual way.

Mr. BARKELL. That is right.

Mr. HARRY YOCKEY. Let it be done in the usual way.

Mr. DES ROCHES. Then, we will ask for a recess, if the Board please, until we have had an opportunity to confer with the 1063 witness, and find out just exactly what he would testify to.

Mr. HARRY YOCKEY. That is all right.

Mr. CLARDY. This is altogether too important to leave out. It directly affects the credibility of the witness, the witness referred to, and other witnesses, and raises the question of bias and prejudice, in connection with a large number of the witnesses who have been presented here by the applicant; and as long as they are contending that they have proved something by those witnesses, it is certainly competent for us, your Honor, to show that.

Mr. DES ROCHES. We do not coach our witnesses beforehand. We have not conversed with this man at all, and we do not know what he is going to say.

Mr. HARRY YOCKEY. We have not said that you did.

Mr. DES ROCHES. He is not a railroad witness.

Mr. BARKELL. Very well, then, gentlemen. We will take a recess of five minutes at this time for that purpose.

Mr. DES ROCHES. Thank you.

(A short recess was taken.)

Mr. BARKELL. Come to order, please, gentlemen. Are you ready to proceed now, Mr. Clardy, with your offer of proof?

Mr. CLARDY. Yes, your Honor. My offer of proof, now, is this: that had the witness been permitted to answer questions along the line you have now excluded, with reference to his conversa-

tions with witnesses produced by the applicant, he would  
1064 have said in substance this: that as to the witness John M.  
Rau of Cedar Springs, Michigan, that man has been, or was,  
an employee of The Pennsylvania Railroad for a period of 24 years;  
that therefore he has a soft spot in his heart for the railroad com-  
pany; and that was the reason why he appeared and testified as  
a witness in this proceeding. The witness would further testify  
that L. W. Sawnyer of Sand Lake, Michigan, who was also pro-  
duced as a witness by the applicant, is at the present time employed  
by The Pennsylvania Railroad, and receives money from the rail-  
road company for the performance of that service. This witness  
would further state, if permitted to testify, that Ralph Jennings  
and Lloyd S. Reynolds, both of Howard City, Michigan, both  
witnesses produced by the applicant herein, both stated that they  
are selling merchandise to some ten or twelve railroad families,  
which in effect support their store, and that that was the reason  
why they appeared and testified in support of the railroad in this  
proceeding. This witness, if permitted to testify, would further  
state that Fred Brack of Stanwood, Michigan, another witness  
produced herein by the applicant, stated that about 50 per cent of  
his business is rail, carload, and that the balance, consisting of less  
than truckload movements, is handled by truck. The witness  
would further testify that N. T. Groff of Morley, Michigan, an-  
other witness produced by the applicant, stated that he is an old  
railroad employee; that he presently leases property from  
1065 the railroad; that he feels he is obligated to the railroad  
company; and for that reason, he appeared and testified  
as a witness in support of this application. The witness would  
further testify, if permitted to do so, that John Haveman—I do  
not know just how to pronounce it, but that is the name, I believe—  
of Moline, Michigan, whom the stenographic record purports to  
show, was also a witness presented by the applicant—and this is  
one place where I think my brother will agree with me, that it  
was mistakenly assumed that that witness was present at the hear-  
ing, when in fact he was not—stated, as this witness would have  
testified, that that is incorrect, and that in truth and in fact, he  
did not appear at the hearing. I want to say parenthetically,  
your Honor, that I am not objecting to his testimony being in-  
corporated into the record, nevertheless, as a part of the stipula-  
tion, as we agreed; but I am merely pointing out that in error, the  
record shows that he was there, when, as a matter of fact, he was  
not there.

Mr. HARRY YOCKEY. May I say also, if the Board please, as to  
that, that if that did actually happen, it was merely because we  
got the wrong name of the man, or the name of the wrong man.

because we did have some other witnesses from that town; and we supposed that he was the man whose name appears in the record.

Mr. CLARDY. I do not doubt that at all, counsel; and I am not raising any objection, as I said before, to the testimony appearing in the record. I am merely calling attention to the 1066 error.

Mr. HARRY YOCKEY? If you want us to correct that, we will.

Mr. CLARDY. No, that will not be necessary. Just leave it as agreed.

Mr. HARRY YOCKEY. All right.

Mr. CLARDY. The record will speak for itself. I raise no point on that. I just want to have it appear of record, that that would have been a part of the testimony of this witness, had we been permitted to go into it. Now, if your Honor please, in order to make my offer of proof rounded out and complete; having made that statement, my offer of proof is that had this witness been permitted to answer the questions that I proposed to direct to him, except for your ruling, the witness would have given testimony substantially as I have recited it in the statement just made; and in addition to that, he would also have testified that he talked not only to these witnesses, but to various other witnesses, but the statements claimed to have been made by them are not presently familiar to me, because I do not have the information. In addition to that, I have another witness here who interviewed others, who would have testified along the same line with regard to those others. However, I will not go into detail as to whom those others were, or what they said, because I think the offer of proof in connection with this one witness will serve the purpose, and 1067 demonstrate my position with respect to what I regard as an error by the Joint Board in its ruling excluding that testimony.

Mr. BARKELL. The record will show your offer of proof Mr. Clardy.

Mr. HARRY YOCKEY. And the objection still stands.

Mr. BARKELL. Yes, sir. Proceed.

Mr. CLARDY. That is all.

Mr. BARKELL. Cross-examine.

Mr. HARRY YOCKEY. No cross-examination.

Mr. BARKELL. Are there any further questions?

Mr. CLARDY. Now, I will go on to another subject with the witness if you do not mind.

Mr. LINDSTRAND. Well, now, just a moment. I thought you were through?

Mr. BARKELL. I thought you said you were through on direct.

Mr. CLARDY. There is one other matter I want to ask him about Mr. BARKELL. All right.

By Mr. CLARDY:

Q. We gave you a list a moment ago of certain witnesses whom we were arranging to have here tomorrow. Do you have a copy of that, Witness?

A. Yes.

Q. You have that list there, or a copy of it, have you?

A. Yes, sir.

Mr. CLARDY. You have a copy of that also, I believe, Mr. Yockey, have you not?

Mr. HARRY YOCKEY. Yes.

By Mr. CLARDY:

Q. Now, Witness, as to the witnesses, and I believe there are 17 of them who are named in the list that we have just distributed here, did you contact, since the hearing yesterday, a number of those witnesses yourself, and have others contacted the balance, as to whether or not they were going to keep their promise to us to appear here for us as witnesses tomorrow?

A. Yes.

Q. Between yourself and the others—and I will have you name who the others were—you contacted all of the witnesses whose names appear on this list, did you?

A. Yes, sir.

Q. And as to each one of them, did they renew their promise that they were going to appear here tomorrow and testify, if we so desired?

A. They did.

Q. And did you further advise him that you were contacting them again, because we were attempting here to work out a stipulation that would obviate the necessity for their appearance here on Wednesday?

A. Yes, sir.

Q. Now, will you name for the record who the other persons were, who contacted some of these prospective witnesses along with yourself?

A. Mr. Martin Elliott, of the Doyle Freight Lines, of Cadillac, Michigan.

Q. Now, right there, Witness; he contacted the four witnesses whose names appear at the top of the list, at Cadillac, Michigan; is that correct?

A. Yes.

Q. All right.

A. And Reed City.

Q. And Reed City?

A. Yes.

Q. Two at Reed City?

A. Yes.

Q. All right. Who else?

A. And Mr. Ernest E. Cross, of the Darling Truck Lines, located at Big Rapids, Michigan:

Q. He contacted all of the witnesses whose residence is given as Big Rapids on this list, did he?

A. Yes, sir.

Q. And you contacted the balance; did you?

A. I contacted the witnesses who are named there as being at Howard City, Cedar Springs, Sand Lake, Rockford, and Stanwood.

Q. And who contacted witnesses at Cadillac, did you say?

A. Mr. Martin Elliott.

Q. Oh, yes.

1070 A. I think at the start of my statement I mentioned him.

Q. Yes; that is true. He contacted both the Cadillac witnesses and the Reed City witnesses; did he?

A. Yes.

Mr. CLARDY. That is all.

Mr. BARKELL. Mr. Des Roches, do you have any further questions of this witness?

Mr. DES ROCHES. Nothing.

Mr. BARKELL. Is there any cross-examination?

Mr. HARRY YOCKEY. Nothing.

Mr. BARKELL. If there are no further questions, the witness is excused.

The WITNESS. Thank you.

(Witness excused.)

Mr. BARKELL. Call your next.

Mr. CLARDY. Now, so that the record will be clear, may I make this inquiry of the Joint Board: I have, as I mentioned a moment ago, another witness, from Interstate Motor Freight System, who interviewed some other witnesses, included among them being some who had appeared for the applicant, as I indicated. Do I correctly understand that if I presented this other witness here to testify on this same subject, the Joint Board, upon objection by counsel for the applicant, would make the same ruling, and preclude me from going into the subject matter with that witness of any admissions or statements that may have been made by those particular witnesses for the applicant?

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Mr. BARKELL. Yes.

Mr. HARRY YOCKEY. Is he here?

Mr. CLARDY. Yes.



Mr. BARKELL. Your understanding is correct, Mr. Clardy.

Mr. CLARDY. Then, your Honor, I desire to have the record show that I make the same offer of proof with respect to my additional witness, that I did in connection with the witness who just left the stand, except that the identity of the witnesses in this case would obviously be different from the other. Now, we have given to the opposition here a list of 17 witnesses who were interviewed again yesterday, following the hearing, or contacted, and notified that we were endeavoring here to enter into a stipulation to obviate their production here tomorrow, as we had originally arranged. The stipulation that we propose as to those witnesses, would be that the testimony, as to each and everyone of them, would be substantially the same on both cross examination and direct examination, as that elicited from the other witnesses whom we have produced.

Mr. HARRY YOCKEY. Shipper witnesses.

Mr. CLARDY. Yes; the shipper witnesses. Their testimony would have nothing to do with the testimony that has been presented here by company witnesses, or operating witnesses. Does that substantially cover what we agreed upon last night,

Mr. Yockey?

1072 Mr. HARRY YOCKEY. Yes; that is correct; with the exception that the agreement was there would not be to exceed 15.

Mr. CLARDY. That is correct.

Mr. HARRY YOCKEY. And you now say that there are 17.

Mr. CLARDY. I will probably have to strike two of them, then, because that was our agreement, that is true. I thought at the time it would not exceed that number, but as it turned out, there were two more.

Mr. HARRY YOCKEY. Well, that is all right. We will not be too technical about it, if you want it that way.

Mr. CLARDY. Well, we want to be fair with you, and if you want to include in the other stipulation the name of the man who was there, but whose name was not included, it is agreeable with us that you do so.

Mr. HARRY YOCKEY. I told you that I would take your word for it, that you did not need to put the man on the stand. I said, if you would make the statement, I would take your word for it.

Mr. CLARDY. I did not do that, because I preferred to have them checked again, and that is why I asked those questions of him. As a matter of fact, that is the reason that he did not get here until noon today, because he made a special trip to see them.

Mr. HARRY YOCKEY. The record may show, if the Joint Board please, that we agree to the stipulation covering the 17 wit-  
1073 nesses referred to.

Mr. CLARDY. Thank you.

Mr. BARKELL. All right.

Mr. CLARDY. Well, now, your Honor, I would like to recall Mr. Christie for a little further cross-examination.

Mr. HARRY YOCKEY. Well, now, your Honor, as we understand it, the cross-examination of Mr. Christie has been closed.

Mr. CLARDY. Well, his cross-examination has not been closed until I have excused him, and I have not excused him as yet. I specifically stated at the last hearing, and I believe the record will show it, that I had not excused him.

Mr. HARRY YOCKEY. If the Joint Board please, the case for the applicant has been closed.

Mr. BARKELL. Well, now—

Mr. HARRY YOCKEY. We have rested.

Mr. CLARDY. Yes, but my case is not closed until I have finished my cross-examination of this man in the light of a number of things.

Mr. BARKELL. Off the record.

(Discussion outside the record.)

Mr. BARKELL. Back on the record.

Mr. CLARDY. Will you come up, Mr. Christie, please.

Mr. HARRY YOCKEY. Now, then, if your Honors please, I submit that if this witness is going to be recalled by the protestants  
1074 for further cross-examination on certain omitted matters, we are entitled to have the specific subjects stated in the record, that Mr. Clardy is going to cross-examine the witness in connection with, that he has omitted; so that we will avoid getting back into a general cross-examination on matters that have already been covered.

Mr. EGGERS. Can that not be taken care of, Mr. Yockey, as the questions are asked?

Mr. CLARDY. I should think so.

Mr. HARRY YOCKEY. Well, we may run into a little difficulty there, but whatever way the Board wants to proceed is agreeable to me.

Mr. BARKELL. Let us proceed.

Mr. CLARDY. My first question will deal with the first matter that I have in mind.

Mr. CHRISTIE. Do I need to be sworn again?

Mr. CLARDY. No, you were sworn once before.

E. M. CHRISTIE recalled:

Cross-examination (continued) by Mr. CLARDY:

Q. My first question, Witness, is this: do you have with you here today, and if you do have, will you now produce for my use, the contract, or a copy of the contract which has been entered into

between yourselves—that is, The Pennsylvania Railroad—and The Willett Company of Indiana?

A. I do not have the agreement with me.

1075 Q. Does anyone else in your entourage here today have the contract, or a copy of it, if you know?

A. Well, I believe that there is one copy that covers a particular route in the possession of someone here, but I do not know just who.

Q. Do you have somewhere in your files, however, whether it is present in the hearing room here or not, a copy of the complete agreement that has been entered into between The Pennsylvania Railroad Company and The Willett Company of Indiana?

A. In the files in the office.

Q. That is what I mean.

A. Yes.

Q. And it would not be too difficult a task to supply a copy to the Joint Board and the Commission, would it, Witness?

A. No, sir; it would not be such a difficult task.

Q. Will you do so?

A. No.

Mr. CLARDY. Now, your Honor, since the Interstate Commerce Commission has said in a letter dated May 28, 1942—

Mr. HARRY YOCKEY. Just a moment, please, Mr. Clardy. I think perhaps we can save some time here. The answer of the witness is that he will not produce it unless the Joint Board or the Commission orders him to produce it. That is correct, is it not, Mr. Christie?

The WITNESS. That is right.

1076 Mr. HARRY YOCKEY. If the Joint Board or the Commission orders him to produce it, it will be produced.

The WITNESS. Certainly.

Mr. HARRY YOCKEY. I just make that suggestion in order to save time.

Mr. BARKELL. Mr. Clardy made reference to a letter. Let us hear what he has to say further in that connection.

Mr. CLARDY. Thank you, your Honor. The Interstate Commerce Commission in a letter dated May 28, 1942, has said this—and I would like to read this into the record with your permission.

Mr. BARKELL. All right.

Mr. CLARDY. After the opening paragraph, referring to the request that I made for a subpoena, the Commission says: "One of the documents, which you request, is a copy of the contract between The Willett Company and The Pennsylvania Railroad, under which service will be performed if the application is granted. I understand that the applicant has indicated to the Joint Board

that if it considers the contract relevant, it is agreeable to supplying a copy for the record. The Joint Board having participated in the earlier hearing, is familiar with the issues, and is in a position to judge whether the contract is relevant and material. It is suggested, therefore, that the question of the production of the contract be taken up with the Joint Board at the 1077 further hearing; and if the Joint Board believes the contract should be made a part of the record, the applicant will supply it." Now, as I understand it, from the statement made just now by Mr. Yockey, if the Joint Board so indicates, he is willing that a copy of the contract be supplied. I raise the point now that obviously that is one of the most material things that can be before you in this proceeding, because until we have inspected it, we cannot possibly know what the definite arrangement between them may be; and we may be confronted with the argument, at some time or another, "Well, the service which you propose"—speaking of protestants—"is not exactly the same, because we have got a clause"—a trick clause—"in this contract, which provides that The Willett Company shall do a certain thing on every other Wednesday"—or something of that kind—"that you have not said you would do." Now, until that contract is in the record, your Honor, I say that we are not possessed of all of the facts that are material, with regard to what kind of service is really proposed; and I therefore, on the basis of the letter, which I have just read you, ask at this time that a request be made by the Joint Board upon either the applicant, The Willett Company, or The Pennsylvania Railroad, that a copy of the agreement be produced here.

Mr. HARRY YOCKEY. If the Joint Board please, this matter has come up in other cases, and we never have been required to produce these contracts, or copies of them, before, except at 1078 the time when we got our certificate. And even in those instances they have not been filed with the Tariff Department, but we have been ordered, as the order will show, to file them with the Commission. Now, that is in line with the general policy of the Commission, with the respect to contracts, not requiring the contracts to be produced. Now, then, this record shows what the standby charge is, and it also shows what the mileage charge is. That has all been gone into, and that is already in the testimony. Mr. Clardy's clients, the truckers, have stated that they are ready and willing to perform the service, provided they have sufficient tonnage. That has all been gone into already here. Now, out of respect for this Joint Board, we are not meaning to be discourteous in saying we will not produce it, because, as I have just explained, if we are required to produce it, we will do so. Now, the fact that the Commission

would not issue a subpoena for it, I believe is in line with the general policy of the Commission in that regard. Of course, this Joint Board has jurisdiction of the matter, to determine that question, but I do not believe that you are going to do any more or anything different than the other Boards have done. Now, naturally, as I say, if you tell us to produce it, we will produce it, but we do not believe that it is competent here.

Mr. DES ROCHE. May I be heard, your Honor?

Mr. BARKELL. Go ahead.

Mr. DES ROCHE. I think that there is still another reason 1079 why the contract is material here. I believe that this Joint Board, and the Interstate Commerce Commission, are interested in knowing whether or not the applicant is going to be subsidized by The Pennsylvania Railroad, whether it is going to be a railroad operation, or a motor-carrier operation. If this application is granted, the carrier naturally will come under the jurisdiction of the Interstate Commerce Commission. I believe that the Joint Board should be interested in the contents of the contract, so as to be able to determine just what the relationship is here, and so that it can finally be determined as to just how the carrier is going to be regulated.

Mr. CLARDY. And add to that this, your Honor: so long as it is their argument, and it has been up until the present moment, that this is a service that can only be performed by their own child, it certainly is material here to know what the precise provisions covering the service may be in the contract. Otherwise, when you gravely conclude, if you do take that position, that you are going to decide the application in favor of the applicant, and that this is the kind of service that requires the railroad to use its own facilities, through The Willett Company, rather than being the kind that some other carrier, common in nature, could perform or furnish, you will then be in utter ignorance of what the precise nature of the agreement is. If the contract is not 1080 produced, then certainly I shall move, and I think the motion should be granted, to have stricken from this record every word of testimony dealing with the nature of the arrangement, on the ground that we asked for it at the very start of the proceeding, because it was the best evidence of the nature of the relationship; and it has not been produced. They have been asked to produce it, as the record shows, and as the Commission has indicated, in what I read you. Therefore, if it is not produced, and I say this in advance of what is going to happen, in merely ordinary justice and fairness, everything that deals with that instrument, or has any relation thereto, should not be considered by you, and should be stricken from the record. Now, if the other



side wants to take either horn of that dilemma, it is all right with me.

Mr. HARRY YOCKEY. Now, if the Joint Board please, there are just two things that I want to say in response to what Mr. Clardy has said, and then I am through. To answer his first proposition, this does not involve anything that is unusual, or out of the ordinary, or anything of that sort. I have stated for the record, and I state again at this time, that this is exactly the same form of contract that has been used in every one of the other cases, covering all of the other 25 routes that are in operation at the present time. Those contracts are on file with the Interstate Commerce Commission, and there has been no collusion, or anything else out of the way in connection with them, because the Commission has approved them. It has issued a definite order, the Commission has, putting its stamp of approval upon them. Now, 1081 in the next place, Mr. Clardy says that he wants to get at the reasons why The Pennsylvania Railroad Company wants The Willett Company to render this service. Well, we tried to go into those reasons, and we tried to get them into the record. We asked Mr. Christie, when he was on the witness stand before, to state the reasons why The Pennsylvania Railroad preferred the service of The Willett Company to the service of other truck lines, and counsel for protestants objected to that, and the Joint Board sustained the objection, and would not permit us to state in the record our reasons why the railroad wanted the service performed that way; and then I made my offer of proof, but it was ruled out. We did all that we could to get into the record the reasons, but they would not permit us to do so. The record here, by the offer of proof, specifically covers the proposition as to the reasons why; and that has been ruled out of the case.

Mr. CLARDY. I did not ask any questions in that regard.

Mr. HARRY YOCKEY. As to why?

Mr. CLARDY. No.

Mr. HARRY YOCKEY. I do not understand you, Mr. Clardy. Do you mean, you did not object—

Mr. CLARDY. That is not the reason I am asking for the contract at all.

Mr. HARRY YOCKEY. Well, I do not care to argue the matter any further. As I say, I think it has been covered.

Mr. EGGERS. Yes; I think we have enough in the record 1082 on this, now.

Mr. BARKELL. Off the record, Mr. Reporter.

(Discussion outside the record.)

Mr. BARKELL. Back on the record. Gentlemen, it is the opinion of the Joint Board that this contract should be filed as a late exhibit, with copies thereof served on all parties of interest, and also the Joint Board, within 10 days from this date, or June 11th.

Mr. HARRY YOCKEY. May I ask, your Honor: do you mean a copy of one of them?

Mr. BARKELL. How is that?

Mr. HARRY YOCKEY. Do you mean just one copy, or 17 copies?

Mr. CLARDY. Maybe I am wrong, your Honor, but I had understood that all of these routes were embodied in one contract.

Mr. BARKELL. Yes.

Mr. HARRY YOCKEY. No.

Mr. EGGERS. That was my understanding.

Mr. CLARDY. Are there several different ones?

Mr. HARRY YOCKEY. There are different contracts, all in the same form, but each describes a different route.

Mr. CLARDY. All of the same general form—

Mr. HARRY YOCKEY. Yes.

Mr. CLARDY. Except for the different description of the highways.

Mr. HARRY YOCKEY. Yes.

1083 Exam. BRYAN. Why not attach all of them together, and make one exhibit of them, and submit that as a late exhibit?

Mr. DES ROCHES. We will be satisfied with one, your Honor.

Mr. BARKELL. You will be?

Mr. DES ROCHES. Yes.

Mr. BARKELL. One route will be sufficient, then.

Mr. HARRY YOCKEY. How is that?

Mr. BARKELL. Counsel says that a copy covering just one of the routes will be sufficient.

Mr. HARRY YOCKEY. All right.

Mr. CLARDY. May I make this suggestion, so that there will be no question about it, now: furnish a complete copy of one particular agreement, with any different verbiage that there may be in any of the others, if there is any such in any of the others set out on a separate sheet. In other words, what I have in mind is this, that there may be a few extra words in some of them and if there is any difference, just put it in on a separate sheet.

Mr. HARRY YOCKEY. I guess Mr. Lindstrand has the copies.

Mr. BARKELL. What are you going to do now, Mr. Yockey—introduce it now?

Mr. HARRY YOCKEY. I thought your Honor just ruled that we would be required to do that.

Mr. BARKELL. No. I did not say right now. I said, within 10 days.

1084 Mr. HARRY YOCKEY. All right.

Mr. BARKELL. How are you going to be able to cross-examine on it if it is going to be filed as a late exhibit?

MR. CLARDY. Oh, well, I am assuming that I will be permitted cross-examine on the basis of the document. That was the understanding I thought I had, as we went along.

MR. BARKELL. That was not my understanding, Mr. Clardy. They said that they would file it as a late exhibit, and that was the ruling that was made.

MR. CLARDY. That is all right, but what I had in mind was, that I could use this for the purpose of cross examination, without waiting until the other one is in, since the language is the same.

MR. HARRY YOCKEY. The Board has ruled against you on that, I understand it.

EXAM. BRYAN. It is not in evidence, Mr. Clardy.

MR. CLARDY. I agree that it is not in evidence, your Honor, but I certainly do not want to consent to the filing of any late exhibit, unless I am going to be permitted to cross examine. I do not want to have the hearing adjourned just for that. I was merely suggesting that as we went along, since the language is the same, according to the statement of Mr. Yockey, and we will accept that. Now, why not use that as the basis for cross examination of this witness? There certainly cannot be any objection to that course, can there? You are not objecting to that course, are you, Mr. Yockey?

MR. HARRY YOCKEY. I am not objecting to anything, Mr. Clardy. The Joint Board has ruled, and we are going to follow the ruling of the Joint Board. They have ordered us to produce it within 10 days from today, furnishing you with a copy, and that is what we are going to do.

MR. CLARDY. Well, that will not do me very much good, as far as the cross-examination of this witness is concerned on that document, to be furnished with a copy 10 days from today. It is here, and as far as cross-examination is concerned, furnishing me with a copy will not be of any avail unless I have the privilege of seeing it and reading the language of it here today. As long as it is here, there certainly can be no reason why I should not see it.

MR. HARRY YOCKEY. If the Joint Board please, I move that we proceed. The time is flying.

MR. BARKELL. Yes.

MR. CLARDY. No; let us not proceed, your Honor, until we find out what we are going to do about this matter.

MR. BARKELL. Off the record.

(Discussion outside the record.)

MR. BARKELL. Back on the record. It is the opinion of the Joint Board that the ruling shall stand. You may continue with any other cross-examination that you may have.

1086 **MR. CLARDY.** Well, then, your Honor, I desire to have the record show at this time that I am withdrawing any suggestion that I may have made, as to any agreement for a late filing of any exhibit by the applicant, because I made it very plain at the time, as we went along here, that since counsel for the applicant had here a copy of the contract, that represented, as he stated, the same language as it contained in all of the contracts, I would not object to a late filing, and that as a matter of fact I wanted it, because I could use the copy that he has here for cross-examination; and I specifically said that I did not want to ask for an adjournment simply for the purpose of cross-examination, when a copy of the contract was present here. Now, the late filing that I agreed to was certainly conditioned upon my being allowed to do that, and if you will go back and read the record, or have the Reporter read it to you, you will see that I said that all the way through. Therefore, I want the record to show now that I am withdrawing my agreement to any late filing of a copy of the contract, unless I am permitted to cross-examine on it at this time.

**Exam. BRYAN.** Mr. Clard, you can make reference to it, and comment on it, in your brief, can you not?

**MR. CLARDY.** Why, certainly I can, but I cannot ask this witness any questions about it on cross-examination, unless I ask for a further hearing, and that is granted; and I do not want to do that. I will make that request, however, if I am not permitted to cross-examine the witness at this time.

1087 **MR. HARRY YOCKEY.** The Joint Board has ruled, and the applicant is perfectly willing to abide by the ruling. It is not a question of whether counsel for protestants is willing to agree to anything, or not. The Joint Board has made its ruling. Now, let us abide by that ruling.

**MR. BARKELL.** The ruling of the Joint Board will stand. Let us proceed.

**MR. CLARDY.** Well, then, your Honor, I am going to make another request, and that is that the copy that they have present here in the hearing room, and that has been in the hands of the Joint Board, be produced and made accessible to me for cross-examination of this witness. I think I am clearly entitled to that.

**MR. HARRY YOCKEY.** The Joint Board has already ruled. This is exactly the same question that we had up before. The Joint Board has ruled, and we are going to abide by the ruling of the Board. Now, we are never going to complete this proceeding, if the Board please, if this counsel is going to be permitted indefinitely to stand up here and try to browbeat everybody in this case.

Mr. CLARDY. Well, now, if I am not being made the victim of persecution, then I am unable to understand what is going on here.

Mr. HARRY YOCKEY. I can hardly imagine anybody trying to persecute you, Mr. Clardy.

1088. Mr. EGGERS. Off the record.

Mr. CLARDY. If I may, your Honor—

Mr. EGGERS. Or do you want this on the record?

Mr. CLARDY. Yes.

Mr. BARKELL. All right.

Mr. CLARDY. I just simply want to say this on the record, your Honor: I have not been in any of the other cases in which this contract, or a similar contract, was involved. Neither have any of my clients, and neither have any of the protestants who are parties to this proceeding. None of us have ever seen that contract, other than to physically see the paper when it was handed up to you here a few moments ago. It is not in the record, according to the statement that Mr. Yockey just made here, in any of the other cases; it is not of record anywhere, where it is available for inspection by anybody. Now, since that is the case, if we are going to go forward now on the assumption that there is such a contract, then I think very clearly, since a copy of it is here, and since thus far, as I said before, no protestant has ever been able to see it, we ought to be given the opportunity at this time to go into it, particularly when there is a witness on the stand before us here, who can be cross-examined with respect to it. Now, if the contract were not here, as it might well not have been, we would have a different situation; but so long as it is right here in front of us in the  
1089 hearing room here, within 10 feet of where I now stand, and as long as it has been in the hands of the Joint Board, certainly I should be permitted to cross-examine the witness upon it. I think, just in ordinary justice to the protestants here, either that should be done, or the motion which I am now going to make to strike from the record every bit of the testimony of the applicant with respect to the existence of such a contract, or the terms of it, or the nature of service that is called for in it, should be granted; and I desire the record to show that I am making such a motion at this time, unless I am given the opportunity to cross-examine this witness upon the contract here and now.

Mr. HARRY YOCKEY. I have no desire to prolong this discussion, if the Joint Board please. I take it that I can only say again what I have now said several times before, that the Joint Board has ruled, and we have stated that we are going to abide by that ruling.

Mr. BARKELL. Mr. Clardy, the opinion of the Joint Board is that the ruling of the Board will stand, and your motion to strike the testimony indicated will be denied.



Mr. CLARDY. I believe we agreed at the outset, if I am not mistaken, that exceptions would automatically follow an adverse ruling.

Mr. BARKELL. That is right.

Mr. CLARDY. Thank you.

(The applicant will furnish within 10 days a copy of one 1090 of the contracts in effect between the Pennsylvania Railroad Company, and The Willett Company of Indiana.)

Mr. BARKELL. Do you have further cross-examination of this witness, Mr. Clardy?

Mr. CLARDY. Yes, indeed.

Mr. BARKELL. Proceed.

Mr. CLARDY. All right.

By Mr. CLARDY:

Q. Now, Witness, let us turn to a more pleasant subject here. Will you look at applicant's exhibit No. 5 in this proceeding, please.

A. 5?

Q. Yes.

A. All right.

Q. Do you find it there?

A. Yes.

Q. O. K. Referring to the first entry, Fort Wayne-Kalamazoo, with your map, applicant's exhibit No. 2 in front of you also, if you will, please, would you take the first town out of Fort Wayne that is on this proposed route, and tell me, if you can, the precise amount of tonnage, both in-bound and out-bound, being handled at the present time by the Pennsylvania Railroad in less than truckload service, to and from that particular town?

A. No, sir; I cannot do that, because I do not have those figures with me.

Q. I did not hear the answer.

1091 A. I say, I do not have the figures available with me here that would show the present tonnage into and out of each town along this route.

Q. Well, now, Witness, at the moment I was only asking you about the first town there.

A. Well, I do not have that.

Q. Could you tell me anything at all, then, about the present tonnage moving in interstate commerce, less than truckload, to and from that particular town at this time?

A. No, sir; I could not. I do not have any figures that I could give you on that.

Q. Well, without going over each town in detail, then, Witness, would your answer be the same with respect to each and every one of the towns on the proposed route?

A. Yes.

Q. All right. Well, then, could you give me—since you do not have that information, could you give me any figure at all with respect to either the inbound tonnage or the outbound tonnage, less than truckload, moving in interstate commerce, that presently would move to any of these points via the combined rail-truck operation proposed in this application?

A. No, sir, I cannot, because I do not have the figures here showing that for each town.

Q. Well, Witness, my question is only with regard to the individual towns. I am interested particularly in the intermediate points.

A. Well, that is just what I am telling you, now, that I do not have the records available showing that information for each individual point.

Q. All right.

A. This is the record of tonnage along the routes.

Q. Well, yes; I know what your exhibit No. 5 is, and I do not want to go into it again—

A. All right.

Q. Because we went over that somewhat in detail at the last hearing. I want to ask you another question, though.

A. All right, sir.

Q. Have you ever had in the preparation of applicant's exhibit No. 5 any precise, detailed figures with respect to the inbound and outbound tonnage at each of the individual towns involved, on the entire set of routes here proposed?

A. Will you repeat that, please.

Mr. CLARDY. Read it.

(Question read.)

A. Yes, sir. In the working up of this exhibit, of necessity I had to take the reports of The Pennsylvania Railroad to get the monthly tonnage inbound and outbound at each of the points in order to make up this exhibit.

By Mr. CLARDY:

Q. What is the precise description of the data, document, book, or record, from which you obtained that information?

A. Well, I took that information from two or three different records. One of them is what is known as the CT-601 report of stations. Another record—

Q. Just a moment, please, Witness, before you go further.

A. All right.

Q. Is the number, which you just stated, a form number assigned by your railroad company to a particular kind of report?

A. That is the form number that is assigned by The Pennsylvania Railroad to a particular form of report; yes, sir.

Q. And that is, what kind of report?

A. Station operations report.

Q. Does it, however, set up any break-down in any fashion or form, of the precise amount of inbound and outbound less than truckload interstate freight?

A. No, sir; it does not. It sets up the tonnage.

Q. The total tonnage?

A. Right.

Q. In other words, then, that sets up the gross inbound and outbound tonnage at each particular station; is that correct?

A. Well, it represents the tonnage inbound and outbound. Just where you get the word "gross," I do not know.

Q. At any rate—

A. It is the tonnage inbound and outbound.

Q. At any rate, Witness, it includes both truckload and 1094 less than truckload figures, does it not?

A. No.

Q. Figures for both the truckload and less than truckload movement.

A. No, sir; it does not. We do not handle truckloads of freight.

Q. I mean, carload, and less than carload. I forget at times, just for the moment, that you are not engaged in the trucking business, and I get them confused.

A. No, sir; it does not include any carload tonnage. It includes just the less than carload.

Q. Just the less than carload.

A. Yes.

Q. All right. Now, what was the other form that you mentioned—or rather, that you were about to mention?

A. CT-610.

Q. And what does that cover?

A. That covers—or rather, that shows the amount of less than carload tonnage loaded in cars.

Q. And again, that does not break the tonnage down into interstate and intrastate; is that correct?

A. Right.

Q. And obviously, neither one of those forms would show whether it was freight that was freight handled all the way to destination by your line, or not, would it?

A. Well, now, Mr. Clardy, I do not think you understand 1095 yet the method by which this was worked up.

Q. Well, perhaps I do not, Witness, because you may have some peculiar meaning of your own there.

A. If you so desire, I will be very glad to explain it to you—or, at least, try to explain it to you.

Q. I would like to have you.

A. All right. We will take, for instance, the tonnage in a small station, the small station of Avilla, Indiana. Now, if that man got any carload or less than carload freight into or out of his station, form CT-601 would show it. But if he did not, then the tonnage would be shown in the proper column of the report as so much in, so much out, and so much transferred per month. Then from his knowledge of the operations of the railroad, a man would know whether the freight was handled in a local peddler car or not.

Q. Well, now, by that do you mean, Witness, that some general, system averages would be applied—

A. No.

Q. To get that figure?

A. No, sir; I do not mean anything of the kind.

Q. Well, then, what do you mean?

A. I mean, that if this record would show, this report, that he did not get any carload or less than carload tonnage into or out of his station, a man's knowledge of the operations of the railroad would tell him that it was handled in a local peddler 1096 car.

Q. Well, now, apparently you thought I was asking you another question.

A. No—

Q. My question was—

A. I understood your question.

Q. Well, my question was this, Witness, do any of these forms, or either of these forms, which you have mentioned, indicate on their face anything about the origin of any shipment, as to whether it originated off of your line, or on your line—

A. No.

Q. Or as to whether it was interstate or intrastate?

A. No, sir; it would not show that.

Q. You would not have any information as to that?

A. No.

Q. And you did not have any information of that kind when you made up applicant's exhibit No. 5, from any source at all, did you?

A. No, sir; I did not. Exhibit No. 5, as I stated before, shows the total tonnage.

Q. That is what I understood.

A. Yes.

Q. Well, then, to get back to my question once more, Witness, you do not have any data at the present time with you here, and

1097 you did not have any data in your preparation of applicant's exhibit No. 5, that would show the information that I have just been talking about?

A. (No answer.)

Q. That is, to show you the precise amount of interstate less than truckload freight that was handled to and from each of the various stations, or points, on that line?

A. No, sir; I do not have that, but I applied the tonnage in this way: I made a study of the number of shipments, interstate and intrastate—

Q. Where; on your entire system?

A. No, sir; just on this particular part of the railroad that the application here covers.

Q. Well, now, will you pause just a moment right there—

Mr. HARRY YOCKEY. Now, just a moment, counsel. The witness is trying to answer your question.

By Mr. CLARDY:

Q. Where did you get—

Mr. HARRY YOCKEY. Now, just a moment, if the Joint Board please. The witness is right in the midst of trying to answer one of counsel's questions, and now counsel is starting to ask another question.

Mr. CLARDY. I just want to know, as the witness goes along here—

Mr. HARRY YOCKEY. He is trying to explain it to you. Give him a chance.

Mr. CLARDY. Where he got the information.

1098 Mr. HARRY YOCKEY. I appeal to the Joint Board.

Mr. CLARDY. I merely want him to tell us—

Mr. HARRY YOCKEY. Well, now, Mr. Clardy, I can keep going here just as long as you can. The witness is trying to answer your question. Now, give him an opportunity to finish his answer.

Mr. BARKELL. Yes; let the witness complete his answer to your question. You apparently interrupted him.

Mr. CLARDY. All I want the witness to do, your Honor, is to tell us, as he goes along, where he got the information.

Mr. BARKELL. All right.

Mr. HARRY YOCKEY. But first let the witness finish the answer that he is now trying to make to counsel's question.

Mr. CLARDY. But I say, as he goes along—

Mr. BARKELL. Just a moment.

Mr. CLARDY. I am just trying to save time, and make the record a little more intelligible as we go along here. It was not my intention to interrupt the witness.



Mr. BARKELL. Well, right at the moment we have the witness apparently right in the middle of an answer. Now, let the witness finish his answer.

Mr. CLARDY. But may I have the witness instructed, your Honor, as he goes along in his answer, to tell us the source of the particular information—

Mr. EGGERS. Let him complete his answer first..

1099 Mr. HARRY YOCKEY. Yes; let him go ahead and finish his answer, and then you may ask him that question after he is finished.

Mr. CLARDY. Well—

The WITNESS. I was going to do that.

Mr. CLARDY. Well, do it any way you like, even if it takes all day. Go ahead.

The WITNESS. Now, will you go back and tell me where I left off, please, Mr. Reporter.

(Answer read.)

A. (Continuing.) Which showed that 91.8 percent of the shipments were interstate. Now, in the past year, not on this particular part of the railroad, but on other parts, a study of the tonnage was made, and the percent of interstate tonnage will just about agree with the percent that I found. Now, get that right: assuming that that would apply here correctly, the amount of interstate tonnage would be 91.8; but I do not have that for each individual station along the route.

By Mr. CLARDY:

Q. Well, now, you answered that before.

A. All right.

Q. And you gave exactly the same general answer. I made a note of it, and I have got it written right down here. But I did not ask you that.

Mr. HARRY YOCKEY. May we proceed with the cross-examination of the witness, your Honor, instead of having counsel 1100 argue with the witness.

Mr. BARKELL. Yes; let us proceed.

Mr. CLARDY. I want the witness to answer this question directly, your Honor.

By Mr. CLARDY:

Q. Witness, have you ever had at any time anything other than the average method which you have just described, or have you used any other method in trying to arrive at the precise amount of less than truckload interstate freight that moves to or from any of the stations that are involved in this particular application?

A. No.

Q. Thank you.

A. Now, let me add: when I say that, I am referring to less than carload freight, and not less than truckload freight.

Q. Yes; that is correct. I am using the term, as far as you are concerned, improperly, I agree.

A. You are.

Q. But you know what I mean.

A. Well, I think I know what you mean, yes; but, of course, I want to be sure.

Q. Then, as to each and every town that is involved in this application, if I inquired to find out from you how much tonnage would move inbound, and how much would move outbound by truck, if this application is granted, you would be unable to answer me, would you not?

1101 A. At the present time; yes.

Q. That is what I mean.

A. That is right.

Q. And you did not have any information upon the basis of which you would have been able to answer that same question at the time you prepared the exhibits for this case, did you—and particularly applicant's exhibit No. 5?

A. I had only the total tonnage, not separated as between intrastate and interstate tonnage, except as I have described it to you.

Q. And not as to towns.

A. Yes.

Q. How?

A. Yes.

Q. But you have not separated—

A. I had it separated as to towns; yes.

Q. Well, but you have not separated it as to towns in any of your exhibits here, have you?

A. No.

Q. And you could not at this time separate it as to towns, no matter how long I might interrogate you, could you?

A. Not today; no.

Q. And you were not able to do that at the last hearing either, if I remember it correctly.

Mr. HARRY YOCKEY. Oh, now, I object to that. Counsel  
1102 is just arguing with the witness again.

Mr. CLARDY. Not at all.

Mr. HARRY YOCKEY. The record will speak for itself. That is not involved here.

Mr. CLARDY. I think it is.

Mr. BARKELL. Oh, let the witness answer the question.

A. I can answer that question. It can be done, yes, sir; but it would take a considerable amount of time to do it.

By EXAM. BRYAN:

Q. Mr. Witness, did you not testify at the last hearing in this case, that 91.8 percent was interstate, and 8.2 percent was intrastate?

A. Of the shipments; yes.

Q. Is that not in the record?

A. Of the shipments; yes.

Mr. CLARDY. And that is just what he got through saying a moment ago here, your Honor.

The WITNESS. Yes.

Mr. CLARDY. But the question that I asked him was not as to the aggregate. My question was as to whether he had, as he explained, used any method other than figuring out what it was on the system, and then figuring that that would apply here—

The WITNESS. No.

Mr. CLARDY. Or whether he had gone to each town—

The WITNESS. I went to each town—

1103 Mr. CLARDY. Never mind, Witness. Let me finish my statement. And sought to obtain accurate figures as to precisely what tonnage was handled into and out of each town. Now, he tells me that he has not ever had that, and he does not have it now.

Mr. HARRY YOCKEY. Oh, no.

The WITNESS. No.

Mr. HARRY YOCKEY. He did not tell you that.

Mr. EGGERS. We are getting a good deal of argument into the record, now, gentlemen. Let us proceed with the cross-examination of the witness.

Mr. CLARDY. All right.

The WITNESS. I might say—

Mr. CLARDY. Just a moment, now, Witness. Give me an opportunity to ask another question.

The WITNESS. All right.

By Mr. CLARDY:

Q. Have you in the preparation of applicant's exhibit No. 5, that we have been referring to here, ever had before you—or did you ever have before you, precise figures that showed the exact amount of in-bound interstate freight, and the exact amount of out-bound interstate freight at each of these points, each of these towns, separately?

A. Now, I would like to explain that, if you please.

Q. No; answer my question first, Witness, and then you may explain it to your heart's content.

1104 A. No; I cannot answer it—

Mr. BARKELL. Answer the question directly, first.

The WITNESS. I cannot answer that question with a yes-or-no answer. I will have to explain.

Mr. EGGERS. That appears to me to be a simple question, Witness. Did you have those figures before you, or did you not have them before you?

The WITNESS. I worked up the tonnage for each town, into and out of each town, at each point along this line.

Mr. EGGERS. Yes?

The WITNESS. And then, insofar as the percentage of interstate and intrastate was concerned, I had the percentage at each town applying to those shipments. Now, that is the situation.

Mr. CLARDY. All right.

By Mr. EGGERS:

Q. But not as to the total.

A. Not as to the total.

Q. All right.

A. The percentage, applying to the shipments.

Mr. CLARDY. All right.

By Mr. CLARDY:

Q. Now, Witness, you at this time are unable to recollect, or to give me any of the figures with regard to any of the towns, are you?

A. No.

Q. I just want to be sure of that.

1105 A. Absolutely, I cannot.

Q. And when I asked you that same question at the last hearing, you were not able to do so at that time either, were you?

A. No.

Mr. HARRY YOCKEY. Now, just a moment.

Mr. CLARDY. Just a moment.

Mr. HARRY YOCKEY. The record will speak for itself.

Mr. EGGERS. I think we are getting somewhat repetitions here.

Mr. BARKELL. Well, the witness has answered the question, anyway. Put another question, Mr. Clardy.

Mr. CLARDY. Now, your Honor, I want to ask the witness another question, and have him answer it.

By Mr. CLARDY:

Q. Witness, have you made any effort since I interrogated you on the witness stand at the last hearing in this proceeding, to obtain, or get, any of those figures, or to refresh yourself in any way as to those figures?

A. You are referring now, are you, Mr. Clardy, to the amount of interstate and intrastate tonnage at each station—

Q. Right.

A. Is that right?

Q. Yes.

A. No; I have not.

Q. Very well. Now, then, Witness, would you look at the map here and tell me at which of the points on this route—or on 1106 these routes you do not have station agents available to receive freight when it is offered there.

Mr. HARRY YOCKEY. Well, now—

Mr. BARKELL. Did you not go into that matter before, Mr. Clardy?

Mr. CLARDY. No.

Mr. HARRY YOCKEY. I think you did.

Mr. CLARDY. No.

Mr. BARKELL. I am not certain.

Mr. CLARDY. I specifically did not go into it at that time, your Honor. I overlooked it; I forgot it.

Mr. BARKELL. All right.

Mr. CLARDY. And I very carefully reviewed the record and then made a note of it so I would not forget it again at this time. There is nothing in the record to show where his railroad company does and does not have station agents.

The WITNESS. I can answer that.

Mr. CLARDY. If there is, then I certainly was sound asleep, and I have not been able to find it by reading the record.

The WITNESS. There was not anything said about that before—I can answer that; but I could not tell you that unless I would have the records of the Pennsylvania Railroad in front of me here. I just don't remember, that is all. There are too many towns to remember.

1107 By Mr. CLARDY:

Q. Well, Witness, do you have any data here, or is there any publication by your railroad company, that would show that information?

A. Oh, yes.

Q. Would that show—

A. That is, there is a publication of the company, I mean to say, but I do not happen to have it here with me at this time.

Q. Would that show, for example—or rather, that would not be shown in the timetable schedules, would it?

A. No.

Q. Because they deal only with passenger travel.

A. Yes.



Q. Or passenger traffic, perhaps I should say.

A. Yes.

Q. What is the document that would show that?

A. AD-80, which is a book about two inches thick, and about 8 by 12 inches in dimensions.

Q. Well, just out of your memory, just out of your recollection, Witness, are you able to recall offhand something about the points on this route, whether they do or do not have station agents available?

A. Well, I can recall that as to some of them; yes, sir.

Q. As to which ones?

A. For instance, at County Spur; there is no station agent there. At Orono there is no agent there. I know that there  
1108 are others also, where there is no agent, but I cannot recall them offhand.

Q. All right. You do not know at the present time anything about the time at which delivery can be effected to the shippers or receivers of freight at any of these towns along the proposed route, do you?

A. I couldn't tell you the exact time; no, sir. I could just merely guess at it, but that is about all.

Q. Well, my question, Witness, was intended to be a little bit more specific than that—or rather, to call for an answer a little bit more specific than that. Are there any points along the way at which you are familiar with the shipping customs and habits of the shippers or receivers of freight at those particular towns, so that you can tell us when the place of business of those shippers or receivers would be open to receive the freight, and when they have been open to receive the freight that you may have for them?

A. Well, no, sir; I don't have any such information available with me right at this time.

Q. Well, have you ever made any survey, yourself, of that situation at all?

A. Well, yes, sir. At the time, that was taken into consideration, I have a record here of Grand Rapids, for example, showing opening at seven o'clock in the morning, and closing at six  
1109 thirty o'clock in the evening.

Q. What are you speaking of now, Witness?

A. Our station at Grand Rapids.

Q. Your own station?

A. Yes.

Q. In my question, I was not referring to your station.

A. What are you talking about, then?

Mr. EGGERS. Mr. Clardy is talking about the places of business of the shipping public, as I understand it.

Mr. CLARDY. Yes.

Mr. EGGERS: That is correct, is it not?

Mr. CLARDY: That is correct.

Mr. EGGERS: As to when those places of business open, and when they close.

Mr. CLARDY: That is right:

A. Oh, no. I haven't any such information. I didn't understand your question before. I am sorry.

Mr. CLARDY: I thought you must have misunderstood the question, when you said something about having a record of some kind.

A. No.

By Mr. CLARDY:

Q. You do not have any information on that score at all, have you?

A. No.

Q. So that, then, when you prepared applicant's exhibit No. 4 here, you did not take into account anything about the times, or the hours, at which the public, the shipping public—shipping and receiving public—at the various towns along the way, would or could receive or handle freight at all, did you?

A. Yes, sir; I did.

Q. Oh, you did?

A. Yes.

Q. Where did you get that information?

A. When I took into account applicant's exhibit No. 4—or rather, I mean to say, when I was preparing exhibit No. 4, I had in mind how the trucks would connect with the train schedules of The Pennsylvania Railroad, and how they could deliver to the stations along the route. I also took into consideration the time that the truck must arrive at the terminal, in order to get out-bound freight loaded on the cars of The Pennsylvania Railroad, for forwarding. Now, in doing that, you cannot serve every little point that there is on a railroad in the way in which they would want you to, possibly, but you must serve the bulk of them. For instance, when you send a freight train, a local freight train, out of Grand Rapids to Cadillac, this man at the first station out here is going to get his freight early, and the man at the last station is going to get his freight late. In other words, you just cannot serve the both of them at the same time.

Q. Well, then, it all comes down to the fact, does it not, that in setting up applicant's exhibit No. 4 here, you did not take into account the hours of receiving and delivering freight, as far as the consignors and consignees are concerned, but rather, just the matter of convenience to the railroad company in carrying on this operation?

A. I would not say that the matter of convenience to the railroad was the only thing that was taken into account; no, indeed. Our purpose in making this up was to get the freight to the receivers just as quickly as possible—the receiving public—and we know that, generally speaking, the receiving public will accept freight between, for example, the hours of nine o'clock in the morning and four o'clock in the afternoon.

Q. Do you know anything about that, with regard to any of the intermediate points between your key terminals, as to precisely when any of the shippers located at those points will have freight ready for delivery to the carrier that will take it from that particular town?

A. Well, we know that they are having it ready at the present time, when the local freight train goes along there during the day, and we have every reason to believe that they will have it ready when and if the truck comes along there. Now, another thing that I might add right along that line—

Q. Well, now—

A. That is, if you are interested—

Mr. CLARDY. No, Witness; I am not interested in any further volunteered statement on your part.

Mr. EGGERS. If there is something further you want to develop, Mr. Christie, your counsel, Mr. Yockey, can ask you  
1112 about that on redirect.

The WITNESS: All right.

By Mr. CLARDY:

Q. My Question, Witness, is simply this, Is the truck schedule which is set forth on applicant's exhibit No. 4 here precisely the same as to hours of arrival and departure, as that of your trains at each of these points?

A. No.

Q. So that will represent a change, then?

A. Yes.

Q. All right. Now, Witness, I am not sure that we touched on this before, but in any event, if we did, I do not think we went very far into it. How many trains will bring freight into Fort Wayne, Indiana, that will be transferred to the trucks at that point, that will move over this particular route?

A. Well, that would be hard to say.

Q. Can you give us a general idea?

A. Well, we have, of course, certain trains—that is, the railroad company has certain trains, that the cars are scheduled to come in, but they may come in on any train, and the number of trains will vary from day to day. Now, you take your cars coming in from the east generally to Fort Wayne, and they would arrive in there at—well, there are some of them that would arrive at

around four or five o'clock in the afternoon, and others would arrive at around ten o'clock at night, and others would arrive around twelve-thirty midnight—or rather, in the morning, 12:30 a. m.; and then there are others that would arrive around 4:30 in the morning, and others that would arrive around 6:30 in the morning; so that there are various different times that those trains will arrive.

Q. Now, Witness, I want to ask you a question with respect to one statement which you made, as appears at page 524 of the transcript of the preceding hearing in this matter, at which you were asked this question by Mr. Yockey—or rather—no. I will take that back. That is not what I had in mind, either. I do not think the question was asked of you by Mr. Yockey. At any rate, Witness, you were asked this question:

“Q. Will you please explain wherein there will be such a reduction in expense, which occurs by the elimination of the use of boxcars?” And you answered:

“A. By handling the freight in trucks, we will eliminate the use of approximately 860 boxcar days per month.”

Now, you were not asked specifically as to what you based that particular answer upon, and I want to ask you this question now: was that answer based upon the assumption that the figures set forth in applicant's exhibit No. 5 would represent the tonnage moving?

A. No.

Q. Or is that one of the bases that was used in arriving at that precise figure of 860 boxcar days?

A. No, sir. What I did there was this: I took into consideration the number of cars shown as having been moved on these 610 reports, and also the fact of the less than carload merchandise cars from the CT-352 classification of less than carload cars; and then I took into consideration the amount of freight that the trucks would haul, and where they would haul it, to and from; and I eliminated all of those cars, as described before; and that is where I got that figure.

Q. All right. Now, where did you get the figure that you just mentioned, when you stated that you took into account the amount of tonnage that the trucks would haul? Where did you get that figure?

A. I got that figure from the CT-610 reports, and from the CT-610 reports, that showed the tonnage that was hauled in those peddler waycars, which were excluded in the CT-352.

Q. In other words, then, you got that figure from the data which you mentioned previously, that you had used in preparing applicant's exhibit No. 5 here; is that correct?

A. With the elimination—

Q. Well, now—

A. Of the cars—

Q. You can answer that question yes or no, Witness. Is that correct, or not?

A. No, sir. I will not agree to that.

Q. Well, then, what is correct?

A. I wanted to explain—I was just starting in to explain  
1115 it to you, and you interrupted me.

Q. You can answer that question directly.

Mr. BARKELL. Never mind arguing back and forth, now, gentlemen. Answer the question.

Mr. EGGERS. Mr. Clardy, may I interrupt to ask one question of Mr. Christie right there?

Mr. CLARDY. Yes.

By Mr. EGGERS:

Q. Mr. Christie, did you not say that applicant's exhibit No. 5 was prepared substantially from those two different reports that you specified, that were prepared at each station, and did you not also say that those same reports were used in determining how many cars—or how many car days would be saved?

A. Yes, sir; that is correct. We have a CT-352, which is a schedule of less-than-carload merchandise cars.

Q. Yes.

A. Now, we took into consideration this schedule tonnage, the tonnage handled in those cars—well, this tonnage is handled in a number of those cars, and we get a great many days out of those cars; and we figured the cars that we could eliminate if we handled the freight by truck.

Mr. CLARDY. Well, apparently, Witness, you have missed the point of my question entirely.

By Mr. CLARDY:

Q. The basis for the figured elimination, then, was that series of numbers which you have mentioned, indicating  
1116 the forms; that is, the figures which you took off of that form, or those forms, were used by you both to prepare applicant's exhibit No. 5—

A. Yes.

Q. And also to arrive at the conclusion that 860 boxcar-days would be saved. Is that correct, now, or not?

A. That is substantially correct; yes.

Q. All right. This figure of 860 boxcar-days, which is the estimate that you give on page 524 of the transcript of the former hearing, pertains and applies only to the tonnage which is represented by applicant's exhibit No. 5 here, which purports to be the tonnage moving for a particular month. Is that correct?

A. Yes.



Q. Which I believe was the month of December, last year.

A. Yes—that is substantially correct.

Q. Now, then, as to the future, looking at it as of today, and the days to follow, you presently have no idea as to the specific number of boxcar days, if any, that will be saved, have you?

A. Well—

Q. Now, Witness, you can answer that question yes or no, and then if you have some explanation to make, you are at liberty to make it.

A. Repeat the question.

Mr. CLARDY. Read it, please.

(Question read.)

1117 A. No, sir; I have no knowledge as to the specific number, as of today. That is correct.

Q. All right.

A. However, that fluctuates, of course, from month to month, but it would be approximately the same. Now, if your tonnage increased, why, then your cars would increase; and on the other hand, if you tonnage decreased, why, then your cars would decrease also to a certain extent.

Q. It would all depend on whether or not applicant's exhibit No. 5 is an accurate portrayal of precisely what is going to move in the future, or whether it is less, or greater. That is correct, is it not?

A. Well, no, sir; for this reason, that your waycars, operating over the division, are going to operate, regardless of whether the tonnage is less, or more. Now, in your question—as far as your question is concerned, you could put more tonnage in them, but at the same time, if your tonnage were to decrease 10 percent, your waycars would still operate. Now, since last December there have been changes made in the waycar situation, which have changed that figure. It will change, you might say, from month to month.

Q. And that will fit all of the other figures—or apply to all of the other figures in the estimates which you gave on the pages of the transcript following page 524, about the overtime of the local freight trains.

1118 A. Yes.

Q. And so forth.

A. That was the December figure.

Q. Yes.

A. That I worked that up on.

Q. That is what I thought.

A. That is right.

Q. Well, now, Witness, do you have any present acquaintance with the nature of the arrangement that the Pere Marquette

Railroad has entered into with these motor carriers, the representatives of which you heard testify here today?

A. No, sir; I have not; except what I have heard here today. I really didn't know anything about it until today.

Q. You had heard nothing about it?

A. No, sir; I didn't know anything about it until I heard them testify with reference to it here today.

Mr. CLARDY. That is all I have.

Mr. BARKELL. Are there any further questions of the witness?

Mr. HARRY YOCKEY. Will your Honor indulge us just a moment, please? No, we have nothing further.

Mr. BARKELL. Are there any further questions up here?

Mr. EGGERS. I have nothing further.

Mr. BARKELL. If there are no further questions, you may be excused, Mr. Christie.

1119 The WITNESS. Thank you.

Mr. CLARDY. Your Honor, before the witness leaves the stand, may I again make the request that I be given the opportunity to cross-examine him on the contract. At least, I ought to be permitted to examine the document itself.

Mr. BARKELL. Mr. Clardy, the ruling of the Joint Board has been made on that matter, and we are going to stand by that ruling.

Mr. CLARDY. Well, your Honor, then I will ask merely for an opportunity to examine the document itself, to see whether or not I would like to ask the witness any questions about it.

Mr. BARKELL. That is up to counsel for the applicant, Mr. Clardy. If they want to permit you to examine a copy of the contract, that is all right with me. But the ruling of the Joint Board was that they should file a copy of it for this record, within 10 days, and they have said they would do that; with copies served on all parties.

Mr. CLARDY. All right. I understand also that you have ruled against me on my motion to strike all of the testimony with respect to the existence of any contract, or the terms of it, or the nature of the service that is called for in it. Is that correct?

Mr. BARKELL. Right.

Mr. CLARDY. Well, then, in order to lay a foundation for a petition for a further hearing in this matter, where I can  
1120 cross-examine the witness, I would like at this time to have the record show my request that when we have finished here today, the proceeding be continued to a date to be set by the Commission, so that I may cross-examine the witness at that time.

Mr. BARKELL. The motion to continue the case to another date to be set by the Commission is denied.

Mr. HARRY YOCKEY. The witness is still on the stand, your Honor. Is that all, Mr. Clardy?

Mr. CLARDY. Just a moment, please. I am just trying to make up my mind.

Mr. BARKELL. Is there anything further from the witness?

Mr. CLARDY. No.

Mr. BARKELL. You may step aside, then, Mr. Christie.

(Witness excused.)

Mr. BARKELL. Now, is there anything further?

Mr. DES ROCHEs. Yes.

Mr. CLARDY. Without prejudice to our motion with respect to the contract, which you have already denied, and our motion for an adjourned hearing at which we might have an opportunity to cross-examine the witness with respect to the contract, we ask permission to file a brief in this matter. After we have had an opportunity to examine the contract, we may or may not desire to file a petition with the Commission for a further hearing. We will determine that later, after we have seen a copy of the contract.

1121 Mr. HARRY YOCKEY. I do not just understand counsel's statement. Do you mean, you want to file a brief on that specific proposition?

Mr. CLARDY. No, no.

Mr. DES ROCHEs. No.

Mr. CLARDY. I say, we may or may not desire to file a formal petition with the Commission for a further hearing, and an opportunity to cross examine with respect to the contract, after we have seen a copy of the contract, which we are to receive within 10 days, as I understand it. But subject to that, I say, we are asking permission at this time to file a brief in this case.

Mr. BARKELL. Mr. Yockey, do you also desire to file a brief in this proceeding?

Mr. YOCKEY. I did not hear your Honor.

Mr. EGGERS. With respect to a brief.

Mr. BARKELL. Do you also desire to file a brief?

Mr. HARRY YOCKEY. Do you mean, a brief covering the entire proceeding?

Mr. BARKELL. Yes.

Mr. HARRY YOCKEY. Why, as far as the applicant is concerned, your Honor, we do not have any particular desire to file a brief, no, sir.

Mr. CLARDY. Well, I do.

Mr. BARKELL. How much time would you like?

1122 Mr. CLARDY. Well, it will probably require a little, additional time, for the practical reason that I want to analyze,

not only the testimony in the record, but also what I regard as the legal fallacies that have been followed in the past, and show that even if the rulings of the Commission in the past were good, still they do not apply to the facts in this case.

Mr. BARKELL. We will allow protestants 30 days time to file their brief.

Mr. CLARDY. Well, we may have to ask for an extension, then, your Honor, because it will take some little time to get out this two-day record.

Mr. BARKELL. Suppose we say, then, 30 days after receipt of the transcript.

Mr. CLARDY. But we do not know exactly when that will be, and I understand that it is necessary to set a definite date.

Mr. HARRY YOCKEY. How about 45 days?

Mr. CLARDY. 45 days will be perfectly agreeable.

Mr. DES ROCHES. That is all right.

Mr. EGGERS. Say, July 15th:

Mr. BARKELL. July 15th?

Mr. CLARDY. All right.

Mr. DES ROCHES. That is all right.

Mr. LINDSTRAND. And I take it, if your Honor please, that the one brief date is for all parties.

1123 Mr. BARKELL. That is correct.

Mr. HARRY YOCKEY. Well, of course, if a brief date is going to be set, we will file a brief also.

Mr. LINDSTRAND. There will be no reply briefs.

Exam. BRYAN. No. Reply briefs are not permissible.

Mr. HARRY YOCKEY. How is that, your Honor?

Exam. BRYAN. I say, there will be no reply briefs.

Mr. LINDSTRAND. No.

Mr. HARRY YOCKEY. Oh, no, I understand that. I just say, if a brief date is going to be set, then we will file a brief also.

Mr. BARKELL. A date has been set.

Mr. HARRY YOCKEY. All right.

Mr. BARKELL. All right.

Mr. HARRY YOCKEY. For the applicant, and the intervener. We are not saying that we will not file one. We are saying, if a date is set, we will file one.

Mr. CLARDY. Whether it is necessary or not.

Mr. HARRY YOCKEY. We do not think it is.

Mr. BARKELL. Let the record show, then, Mr. Reporter, that briefs will be due in this case on or before July 15th, 1942. Is there anything further, now, gentlemen? (No response.) If not, the hearing is closed.

(At 3:55 p. m., June 2, 1942, hearing closed.)

